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**SINGHANIA & PARTNERS** LLP  
SOLICITORS AND ADVOCATES

## In this issue

## PATENTS

- Announcement of reduced official fee for patent filings
- “Order passed by one coordinate bench is binding on another coordinate bench”, says the Court
- KVIC secures patent for recycling waste plastic

## DESIGNS

- The Register of Designs made Available Online

## TRADEMARKS

- The High Court of Delhi extends injunction against Hardik Mukeshbhai Pansheriya and Others
- The High Court of Bombay sets aside order of Single Judge Bench to protect the trademark “THE ASWA” of Meher Distilleries
- PUMA Group attains injunction against The Shoe Kart for trademark infringement of its logo and wordmark
- Dream11 secures protection of its trademark as Delhi High Court grants ad-interim relief against mark “MyDream11”
- Yonex secures an ex-parte injunction in its favour from the High Court of Delhi for the protection of its trademark “YONEX”
- Gujarat Cooperative Milk Marketing Federation receives protection from the Delhi High Court for its trademark “AMUL”
- Calcutta High Court refuses to grant protection to Biswanath Hosiery Mills Limited’s trademark “LUX”

## COPYRIGHT

- The High Court of Calcutta refuses to grant injunction against Zee Enterprises Limited in copyright infringement case
- The High Court of Delhi protects exclusive rights of Viacom 18 Media for broadcasting the Spanish Football League, 2021

## GENERAL

- Glenmark Pharmaceuticals signs agreement with SaNOTize for COVID-19 treatment nasal spray in India and other Asian markets
- Supreme Court ruling on tax on copyrights results in clash between multinationals and Indian companies
- The Central Government seeks inputs of stakeholders and industry bodies on IPR issues regarding India-UK Enhanced Trade Partnership

## PATENTS

ANNOUNCEMENT OF REDUCED OFFICIAL FEE FOR PATENT FILINGS<sup>1</sup>

The office of Controller General of Patents, Designs and Trade Marks (CGPDTM) and Department for Promotion of Industry and Internal Trade (DPIIT), in association with Confederation of India Industry (CII) have recently conferred the National IP Awards, 2020. The virtual ceremony was graced by the presence of Hon’ble Minister of Commerce and Industry, Mr. Piyush Goyal.

Although, the applications for this award were submitted in the year 2020, however, due to pandemic the ceremony was deferred and now conducted on 17th August 2021 virtually. The objective of this initiative is to recognize and reward the top achievers, comprising individuals, institutions, organizations, enterprises, police units and other legal entities, for IP creation, commercialization and enforcement, which has contributed towards strengthening IP eco-system in the country and encouraging creativity and innovation and to boost up the IP filing rates. The winners were felicitated with cash awards, trophies and citations.

The other highlight of the event was a special announcement for educational institutes. The Government of India to encourage and strengthen the intellectual property regime among the educational institutes announced the 80 percent reduction in the official fee for filing the patents in India. The educational institutes, which are government-owned, government-

aided or private institutions, whether situated in India or abroad can avail this facility. Also, it was announced that CGPDTM will impart IP training and awareness to students under program “Azadi ko Amrit Mahotsav”.

### THE HIGH COURT OF DELHI GRANTS INTERIM INJUNCTION IN FAVOUR OF SULPHUR MILLS LIMITED FOR ITS PATENT RELATED TO AN AGRICULTURAL COMPOSITION<sup>ii</sup>

Sulphur Mills Limited (**Plaintiff**) filed a suit for patent infringement of its patent no. 282429 (**IN429**) before the High Court of Delhi (**Court**) against Dharmaj Crop Guard Limited and Anr. (**Defendant**).

The IN429 is related to agricultural fertilizer composition which can be used at a reduced dosage to uniformly deliver Sulphur to the soil. Upon the grant of IN429, the Defendant filed a post-grant opposition (**Opposition**) challenging grant of the patent. However, during the pendency of the Opposition, the Plaintiff became aware that the Defendant has launched an agricultural composition under the brand name “SUFFAR 90” and “COZY WET 90 WDG”, which was infringing their patent IN429. The Plaintiff to confirm the infringement of their patent, got the tests conducted and obtained expert opinions.

It was submitted by the Plaintiff that the Defendant has not disputed the infringement of the patent but relied on invalidity of IN429. The IN429 was an agricultural composition which converts Sulphur into Sulphate, making it available for immediate

absorption by plants. Further, regarding lack of novelty asserted by the Defendant, the Plaintiff submitted that the earlier Indian patent application, i.e., 655/MUM/2000 (**Prior Art Document**) of the Plaintiff was a fungicidal composition which comprised of a minimum 80% of Sulphur content as opposed to IN429 whose Sulphur content ranges from 82% to 98% (w/w). Also, the fungicidal composition of the Prior Art Document was applied on plants and not over the soil.

Further, the Prior Art Document has disclosed a different granule and particle size of Sulphur which was not present in IN429. On the assertion regarding lack of inventive step, the Plaintiff submitted that in IN429 the particle size was reduced to 2 to 12 microns, therefore increased the loading of Sulphur, however the Prior Art Document disclosed that the bigger granule size of Sulphur, being contrary to the IN429. The Court, while granting interim injunction against the Defendant held that over the course of examination the range of sulphur was reduced and restricted to 82% to 98% (w/w) in the IN429, which is common practice to overcome the objections raised by the Controller of Patents. Further, no deductions can be drawn from the amendments of claims through ‘reverse analysis.’ Also, the presence of common or general standardizing agents including wetting agents, dispersing agents, filler and binding agents and their amounts in the two compositions did not make both inventions similar or identical.

The Court further stated that if a specific selection has been done from prior art and the same shows unexpected results or yield or production, it is considered as another invention. Therefore, the Defendant were not able to conclusively prove that Plaintiff's patent IN429 lacks novelty and inventive step.

**“ORDER PASSED BY ONE COORDINATE BENCH IS BINDING ON ANOTHER COORDINATE BENCH”, SAYS THE COURT<sup>iii</sup>**

The High Court of Delhi (**Court**) granted ex parte ad-interim injunction against Micro Labs Limited (**Defendant**) for infringing Bristol-Myers Squibb Ireland Unlimited Company and Ors. (**Plaintiff**) registered patent no. 247381 (**IN381**) related to lactam-containing compounds and their derivatives and pharmaceutical compositions containing the same, along with methods of using the same as anticoagulant agents for treatment of thromboembolic disorders known as 'Apixaban'.

The Plaintiff contended that they have exclusive right over the concerned patent under Section 48 of the Patents Act, 1970. Heavy reliance was also placed by the Plaintiff on six orders passed by a Coordinate Bench, granting injunctive reliefs in favour of the Plaintiff for infringement of IN381. The Defendant had filed a suit for revocation of IN381 under Section 64(1) of the Patent Act, 1970, for launch of the generic 'Apixaban' products under the name of "APIVAS". The investigations confirmed that the APIVAS was available on third party

websites. Thus, the Plaintiff filed a suit for infringement of their registered patent IN 381 by the Defendant.

The Defendant submitted that this Court was not bound by the earlier interim orders passed by the Coordinate Bench. For this purpose, decision in AstraZeneca AB and Anr. v. Intas Pharmaceutical Ltd. was relied upon. It was also contended that the orders of the Coordinate Bench were per incuriam as per Sandeep Kumar Bafna v. State of Maharashtra. Furthermore, the Defendant stated that the Plaintiff admitted the expiration of its patent IN243917 (**IN917**) in 2019 and has wrongly asserted that IN917 has millions of compounds including 'Apixaban' by virtue of the Markush claim. That the Plaintiff was claiming registration of two patents, i.e., IN917 and IN381, with the product 'Apixaban'. The Court held as follows -

- The facts and circumstances of the present case and AstraZeneca AB and Anr. v. Intas Pharmaceuticals Ltd. were entirely different and thus cannot be relied upon.
- That on perusal of the six interim orders passed by the Coordinate Bench, restraining the concerned Defendant for infringing the Plaintiff's patent, IN381, it is evident that a Coordinate Bench was bound by an order of another Coordinate Bench. If a Coordinate Bench disagrees with the order passed earlier by another Coordinate Bench, then the same must be referred to a larger bench.

- It was accepted that the consistent claim of the Plaintiff that IN917 was the genius patent for Markush formula covering millions of compounds, however, the specific disclosure of ‘Apixaban’ was done only in IN381.
- Ex-parte ad interim injunction was passed in favour of the Plaintiff and against the Defendant by restraining its directors, employees, officers, servants, agents, wholesalers, etc. from making, using, selling, distributing, advertising, exporting, or offering for sale any generic ‘Apixaban’ product which infringed the Plaintiff’s patent IN381.

### KVIC SECURES PATENT FOR RECYCLING WASTE PLASTIC

Khadi and Village Industries Commission (KVIC) has been granted a patent for its innovative plastic-mixed handmade paper by the Intellectual Property Office. The plastic-mixed handmade paper was developed under Project REPLAN (REducing PLastic from Nature), which was launched in 2018 in line with “Swachh Bharat Abhiyaan” (Clean India Mission), with an aim to reduce plastic waste from nature.

The patented technology uses both high- & low-density waste polythene that adds extra strength to the paper and reduces the cost by up to 34 percent. The product is recyclable and eco-friendly.

### DESIGNS

### THE REGISTER OF DESIGNS MADE AVAILABLE ONLINE

The office of Controller General of Patents Designs and Trademarks (CGPDTM), has made available E-Register of Designs (**E-Register**) on 05 August 2021, which can be accessed through the link [E-Register of Designs](#).

The E-Register facilitates the public to access information related to registered designs, just by entering the design number. However, unlike E-Register of Patents, this E-register does not contain file wrapper. It only contains limited bibliographic information like design number, filing date, type of application, class and sub-class, notification date, reciprocity date, name of the article, name of the registered proprietor and address of the proprietor as well as address for service.

In order to access the relevant documents and representation sheets related to design, one has to apply for physical inspection with the Design Office.

### TRADEMARKS

### THE HIGH COURT OF DELHI EXTENDS INJUNCTION AGAINST HARDIK MUKESHBHAI PANSHERIYA AND OTHERS<sup>iv</sup>

The ZED Lifestyle Pvt. Ltd. (**Plaintiff**) had filed a suit for trademark infringement against Hardik Mukeshbhai Pansheriya and Ors. (**Defendant**) for infringing their registered trademark “BEARDO”. The High Court of Delhi (**Court**) had granted an injunction against the Defendant in May

2021. The Plaintiff, in the present matter, pleaded for extension of this injunction.

The Plaintiff holds 18 registrations for the word and device mark “BEARDO” comprising of a picture of a bearded gentleman, in eight classes. The word mark “BEARDO” had been registered under class 3 for “Bleaching preparations and other substances for laundry use”. The Defendant however, had been absent since the order passed in May 2021.

Emphasis was laid by the Plaintiff on judgments given in *Raj Kumar Prasad v. Abbott Healthcare Pvt Ltd* and *Ford Motor Company v. CR Borman*. These judgements focused on Section 29(4) of the Trade Marks Act, 1999, regarding infringement of registered trademarks. The Court stated that Section 29(4) of the Trade Marks Act, 1999, acts as an exception to Section 29(1) and Section 29(2) of the Trade Marks Act, 1999, and can only be satisfied when the following criteria are met with -

- Two marks are identical or similar;
- Plaintiff’s mark has a reputation in India;
- Defendant’s mark is taking an unfair advantage of the Plaintiff’s mark;
- Use of Defendant’s mark is “without due cause”.

The Court held that the Plaintiff has satisfied all conditions of Section 29(4) of the Trade Marks Act, 1999. It also took into consideration the consistent absence of the Defendants and their failure to give any response while extending the injunction. The Defendants were directed to remove all pages related to sale of goods with the mark

“BEARDO” from its website, regardless of the class, category and nature of goods.

### THE HIGH COURT OF BOMBAY SETS ASIDE ORDER OF SINGLE JUDGE BENCH TO PROTECT THE TRADEMARK “THE ASWA” OF MEHER DISTILLERIES<sup>v</sup>

Meher Distilleries (Plaintiff/Appellant) had filed a suit for trademark infringement, in the High Court of Bombay (Court) against SG Worldwide and Radico Khaitan Ltd. (Defendant/Respondent) for using a deceptively similar trademark.

The Plaintiff/Appellant is a registered proprietor of the trademark “THE ASWA”, used since 2016 for alcoholic beverages. The Defendant/Respondent had been manufacturing and exporting single malt whiskey under the trademark “ASĀVA” since January 2020. The Plaintiff/Appellant subsequently filed a suit for trademark infringement in the Court under a Single Judge Bench, claiming deceptive similarity between the two marks. The Single Judge Bench held that the Plaintiff/Appellant was unable to make out a clear case for grant of injunction since the two marks are not visually, phonetically, or structurally similar. The Plaintiff/Appellant filed an appeal in this Court under Section 13 of Commercial Courts Act, 2015.

It was submitted by the Plaintiff/Appellant that the Defendant/Respondent mark “ASĀVA” was identical or deceptively similar to the Plaintiff/Appellant’s mark “THE ASWA”. It was further submitted that the existence of identical or deceptively similar



mark of the Defendant/Respondent, would cause confusion among the public as they would associate the Defendant/Respondent products with those of the Plaintiff/Appellant's. It was further contended that a case was made out under Section 29 of Trade Marks Act, 1999.

The Defendant/Respondents submitted that their trademark comprises of "RAMPUR ASĀVA" and hence there lies no similarity between the two. They relied on the contention that the term "ASĀVA" was a descriptor or a sub-brand of a particular type of single malt whiskey and was used in a suggestive manner of maturing the RAMPUR whiskey, falling within the ambit of Section 30(2)(a) of Trade Marks Act, 1999. The Defendant/Respondent also relied on the fact that the Plaintiff/Appellant has filed an application for registration of mark "ASĀVA", which thereby was an indication of their acceptance of the two marks not being similar. The act of the Plaintiff/Appellant operates as estoppel against them from contending the case for infringement.

The Court identified certain lacunas in the impugned order of the Single Judge Bench and held that -

- The house mark and mark/sub-brand of the product had their independent uses and hence the mark "ASĀVA" cannot be considered as a sub-brand.
- The two marks were deceptively similar to each other as the test applied would be how an average consumer would pronounce and perceive the words.
- Since each dialect lead to different pronunciations, overall phonetical similarity must be considered.
- The mere fact brought on record by the Defendant/Respondent regarding estoppel against the Plaintiff/Appellant would not indicate suppression of facts by the Plaintiff/Appellant.

In light of the above observations, the Court set aside the impugned order given by the Single Judge Bench including the order for costs.

#### PUMA GROUP ATTAINS INJUNCTION AGAINST THE SHOE KART FOR TRADEMARK INFRINGEMENT OF ITS LOGO AND WORDMARK<sup>vi</sup>

The High Court of Delhi (Court) granted injunction against Ashok Kumar trading as 'The Shoe Kart' (Defendant) for counterfeiting the goods and infringing the trademark of PUMA Group (Plaintiff).

The Plaintiff received a complaint from a customer in Delhi claiming poor quality of products bought from the Defendant's website. It was submitted by the Plaintiff that it had not authorized the Defendant to sell its product and thus, the Defendant had been counterfeiting their products by falsely using their 'PUMA' logo. The Plaintiff has been using their 'PUMA' logo and the 'STRIPE' logo continuously since 1948 and 1956, respectively. The mark 'PUMA' has been registered by the Plaintiff under various classes, i.e., it was registered under Class 25 on 15 February 1977 and the Form Strip Logo was registered under the same

class in 1983. Further, the ‘PUMA’ logo was registered in 1986 under Class 18.

The Plaintiff, thus, prayed for restraining the Defendant from supplying, marketing, selling in any manner including online sale or through e-commerce portals, any good including footwears or any other accessories using Plaintiff’s mark and logo, ‘PUMA’. The Court accepted the prayer of the Plaintiff and granted injunction against the Defendant. The Defendant was also directed to remove all the impugned products from its website and any other B2B, B2C websites including any other online directories or portals. The Domain Name Registry was also instructed to suspend the domain name of the Defendant, <https://theshoeskart.com/>, its URL <https://lnkd.in/eKs39VGF>, along with its IP address, 23.227.38.74.

#### DREAM11 SECURES PROTECTION OF ITS TRADEMARK AS DELHI HIGH COURT GRANTS AD-INTERIM RELIEF AGAINST MARK “MYDREAM11”<sup>vii</sup>

The High Court of Delhi (Court) granted an ad-interim relief in favour of Sporta Technologies Pvt Ltd (Plaintiff) protecting their trademark and domain name “DREAM11” against the infringing use by the Defendant, impleaded as “John Doe”, Defendant’s identity and particulars are unknown.

The Plaintiff being in the business of fantasy sports had launched a platform under the mark “DREAM11” in 2012, having a registered domain name [www.dream11.com](http://www.dream11.com) since 2008. Further, the Plaintiff has various

registered trademarks under the name “DREAM11”. The Defendant is also providing fantasy sports services and had been using the domain name [www.mydream11.in](http://www.mydream11.in). The Plaintiff asserted that though the Defendant was yet to launch its website and mobile application “MyDream11”, injunction must be granted against it to prevent creation of confusion. It was also submitted that infringement of domain name has been recognized as a genus of infringement in trademark law by the Supreme Court in *Satyam Infoway Ltd v. Siffynet Solutions (P) Ltd.*

The Court was of the view that the submissions of the Plaintiff signify a prima facie case for grant of ad-interim relief. The Defendant was restrained from using the mark “MyDream11” or any such mark that would be similar to Plaintiff’s mark “DREAM11” as a trademark, trade name, domain name or otherwise on any social media platform that would result in infringement or passing off Plaintiff’s marks.

#### YONEX SECURES AN EX-PARTE INJUNCTION IN ITS FAVOUR FROM THE HIGH COURT OF DELHI FOR THE PROTECTION OF ITS TRADEMARK “YONEX”<sup>viii</sup>

The High Court of Delhi (Court) granted an ex-parte injunction in favour of Yonex Co. Ltd (Plaintiff), who filed a suit for trademark infringement and counterfeit of good against Sumit Gardhar (Defendant).

The Plaintiff was incorporated in Japan in 1958 and had adopted a distinctive mark for its usage. Various trademark registrations



were obtained by the Plaintiff in 1980 and the trademark “YONEX” was registered in India in the same year under the Class 28, 25 and 18. In December 2019, Plaintiff received complaints of poor-quality badminton racquets being sold in the name of “YONEX” in Delhi and Rohtak. An FIR was filed by the Plaintiff against the Defendant for selling counterfeit goods. Investigations and raids conducted by the Delhi Police resulted in racquets being seized from the Defendant. The dishonest and mala fide intention of the Defendant was evident as they revealed names of other wholesalers and manufacturers involved in counterfeiting the Plaintiff’s products.

The Court held that a prima face case has been established by the Plaintiff. The Defendant was involved in counterfeiting products and infringing the trademark of Plaintiff’s products. The Court, thus, restrained the Defendant from marketing, selling, distributing, advertising or dealing with the goods bearing mark “YONEX” in any manner and granted an ex-parte injunction.

#### GUJARAT COOPERATIVE MILK MARKETING FEDERATION RECEIVES PROTECTION FROM THE DELHI HIGH COURT FOR ITS TRADEMARK “AMUL”<sup>ix</sup>

The Delhi High Court (**Court**) granted ad interim relief in favour of Gujarat Cooperative Milk Marketing Federation Ltd (**Plaintiff**) for protection of its trademark “AMUL”, being deceptively used by Maruti Metals (**Defendant**).

The Plaintiff is a registered proprietor for the well-known trade mark “AMUL” used in milk and related products. They filed a suit for trademark infringement against the Defendant for using deceptively similar mark for kitchenware and utensils. The Plaintiff relied on Section 29(4) of the Trade Marks Act, 1999 to state that an action of infringement lies with regard to dissimilar goods. It was contended that since “AMUL” has no etymological meaning, it is associated with the Plaintiff for any entity. Further, the Defendant had illegally shown its mark as registered by adding the superscript ®.

The Court identified a prima facie case in favour of the Plaintiff. It was held that since the Defendant’s mark has not been registered, a case for misrepresentation lies which amounts to fraud on the public. Thus, ad interim relief was granted to the Plaintiff.

#### CALCUTTA HIGH COURT REFUSES TO GRANT PROTECTION TO BISWANATH HOSIERY MILLS LIMITED’S TRADEMARK “LUX”<sup>x</sup>

The High Court of Calcutta (**Court**) refused to grant interim relief to Biswanath Hosiery Mills Limited (**Plaintiff**) for the suit filed for trademark infringement and passing off against Micky Metals Limited (**Defendant**).

The Plaintiff is a registered proprietor of 22 “LUX” trademarks and adopted the same in 1957. It was submitted that with its products becoming popular and acquiring a brand value, the mark “LUX” has become well known. The Defendant, by registering its mark “LUX TMT 500+ ISI” for TMT Bars and

Rods, “LUX TMT DURGAPUR” and “LUX-EK SOLID SOCH” has infringed the Plaintiff’s registered trademark “LUX”. The Plaintiff contended that since they were the prior users of the mark “LUX”, they have acquired rights superior to the Defendant.

The Defendant submitted that the Plaintiff’s had filed the suit with an authorized representative which was not permissible under Order XXIX Rule 1 of the Code of Civil Procedure. It was further submitted that the Plaintiff has registered trademarks under Class 25 whereas the Defendant has registered their marks under Class 6. Moreover, one registered proprietor cannot sue another registered proprietor for trademark infringement according to Section 28(3) of Trade Marks Act, 1999. The Defendant submitted that Plaintiff’s mark “LUX” was not a well-known mark since many entities/persons have registrations for the mark “LUX”.

The Court stated that the word “LUX” was not a new coinage by the Plaintiff. Further, the Plaintiff and Defendant were in different classes of business, making it unlikely for any deception. Furthermore, the Plaintiff’s mark “LUX” did not feature in the list of well-known marks published on the website of the trademark registry. Since a third entity, i.e., Hindustan Unliver Limited also has a registration for “LUX”, the Plaintiff cannot claim to have a superior right. Therefore, the Court ruled in favour of the Defendant by refusing to grant any interim relief against them.

## COPYRIGHT

### THE HIGH COURT OF CALCUTTA REFUSES TO GRANT INJUNCTION AGAINST ZEE ENTERPRISES LIMITED IN COPYRIGHT INFRINGEMENT CASE<sup>xi</sup>

RDB and Company (Hindi Undivided Family) and Turtle In-Motion Studios (**Petitioner**) filed a suit for copyright infringement against Zee Entertainment Enterprises and Balarka Projects (**Respondent**) in the High Court of Calcutta (**Court**), claiming to be owners of copyright in the cinematograph films.

The Petitioner submitted that they were owners of the copyright of ten cinematograph films because the father of one of the Petitioners’ was the producer of the said films. They further claimed exclusive rights to sell the concerned films or give them on commercial rental to be shown to the public, belonged to the Petitioner. The RDB and Company (Hindi Undivided Family) and Turtle In-Motion Studios had a license agreement with respect to the rights in the cinematograph films and Turtle In-Motion Studios had a license to use the said films, further licensed to Balarka Projects, one of the Respondents’.

It was submitted that the Respondent, by telecasting the films in Bangladesh (outside India) on its OTT platform ‘Zee5’, had violated the terms and conditions of agreements signed with Turtle In-Motion and Balarka Projects for telecast of the ten films. The Petitioner stated that Balarka

Projects breached the agreement by sub-licensing rights to Zee Entertainment Enterprises for telecasting content outside India, without informing the Petitioner.

The Respondent, however, submitted that the Petitioner was aware about the films being telecasted on its OTT platform since September 2020. Further, they stated that the Respondent is also a bona fide assignee by paying considerable amount to telecast the films in question. Respondents also stated that the Petitioner cannot claim to have ownership of copyright of the films.

The Court while deciding the issue of ownership of copyright analyzed Sections 17(c), 2(d)(v) and 55(2) of the Copyright Act, 1957. It noted that the first Petitioner appears as an applicant before the Censor Board for Films of Satyajit Ray and the name of the second Petitioner appears before the Censor Board for Films for non-Satyajit Ray films. Since there exist no documents to show the devolution of copyright on the Petitioner through the producer, being the father of one of the Petitioners', they cannot be treated as the copyright owners of the ten films. Further, the second Respondent did not violate the license agreement with the Petitioner since no complaint for breach of covenants was made by the Respondent for termination of agreement. The Petitioner also did not seek any declaration for the avoidance of contract. The mails exchanged between the Petitioner and Respondent signify Zee Entertainment to be a bona fide assignee.

Thus, the Court rejected the prayer for interim relief and grant of injunction for the Petitioners and the submissions of the Respondents were accepted.

### THE HIGH COURT OF DELHI PROTECTS EXCLUSIVE RIGHTS OF VIACOM 18 MEDIA FOR BROADCASTING THE SPANISH FOOTBALL LEAGUE, 2021<sup>xii</sup>

A suit for copyright infringement and protection of broadcasting rights was filed by Viacom 18 Media Pvt Ltd (**Plaintiff**) before the Delhi High Court (**Court**) against Oreo TV.com and Ors. (**Defendant**) for grant of interim injunction.

The Plaintiff is a company incorporated under the Companies Act, 1956 and comprises of various network of channels and OTT platforms. They had acquired an exclusive license from the Liga Nacional De Football Professional (LNDFP) to broadcast and communicate to the public the Spanish Football League or the La Liga matches of 2021. The Plaintiff submitted that it has exclusive media rights as well as copyright protection pertaining to the broadcast of La Liga 2021.

The Defendant comprise of websites engaged in the business of uploading pirated and unlicensed content, multi system operators, local cable operators and Internet Service Providers carrying out the business of providing basic telephony, mobile services and broadband network all over the world. Broadcasting any live transmission of the La Liga 2021 including footage, clips, live score updates, play-by-play commentary etc.

without prior authorization of the Plaintiff would lead to infringement of their exclusive rights.

The Court after due consideration, established a prima facie case of infringement of copyright as well as the exclusive rights of the Plaintiff. The Defendants and their partners, proprietors, officers, servants, agents and representatives were restrained from broadcasting, communication and telecasting to subscribers any content of the La Liga 2021. It was held that authorization of the Plaintiff was mandatory for the Defendants to transmit or communicate to the public any footage, clip, audio-video, or any part of the La Liga 2021 to the public.

## GENERAL

### GLENMARK PHARMACEUTICALS SIGNS AGREEMENT WITH SANOTIZE FOR COVID-19 TREATMENT NASAL SPRAY IN INDIA AND OTHER ASIAN MARKETS<sup>xiii</sup>

Glenmark Pharmaceuticals signed an agreement with SaNotize Research and Development Corp, based in Canada for commercialization of its Nitric Oxide Nasal Spray for treatment of COVID-19 in India and other Asian markets including Malaysia, Sri Lanka, Singapore, Hong Kong, Taiwan, Nepal, Laos, Myanmar, among others.

The expert committee formed by the Central Drugs Standard Control Organization (CDSCO) recommended a phase III clinical trial to be conducted on Indian patients after which it will be launched in the country under the

brand name of 'FabiSpray' in the fourth quarter of 2021. SaNotize had developed and patented the Nitric Oxide Releasing Solution Platform Technology (NORSTM) for treatment of microbial infections in 2017, which will now be used in the nasal spray. This news comes as relief for patients suffering from COVID-19 in India.

### SUPREME COURT RULING ON TAX ON COPYRIGHTS RESULTS IN CLASH BETWEEN MULTINATIONALS AND INDIAN COMPANIES

The recent Supreme Court judgment dealt with the details of what comprises of a royalty and whether they can be taxed. It was held that the payments made by local users for purchase of software from foreign companies cannot be taxed as royalty. This has led to a spar between multinational companies and Indian tech companies regarding the applicability of tax on copyright.

The issue faced by Indian companies is whether the software directly installed in cell phones, computers etc., should be taxed on royalty or copyright money that is paid by them to multinationals. Multinational companies have challenged the practice of Indian companies deducting 10% tax on copyrights and royalties, owing to the Supreme Court judgment. Though Indian companies want to continue with the 10% tax, multinational companies are not in favour of the same.

### THE CENTRAL GOVERNMENT SEEKS INPUTS OF STAKEHOLDERS AND INDUSTRY BODIES ON

## IPR ISSUES REGARDING INDIA-UK ENHANCED TRADE PARTNERSHIP<sup>xiv</sup>

The IPR (Negotiations and Cooperation) Section of the Department for Promotion of Industry and Internal Trade (DPIIT) issued a letter to the Trade and Industry Associations, Businesses, General Public, Non-Profit Organizations, and other interested stakeholders seeking suggestions on IPR issues with respect to India-UK Enhanced Trade Partnership.

Since IPR plays a significant role in the trade partnership agreement between India and UK, creative and technologically driven IP industries must pay attention to this agreement. The DPIIT thus, wants to consider inputs given by all sectors of the society and international stakeholders regarding essential considerations including of patent, trademark, copyright, design, geographical indications, enforcement, commercialization and technology transfer.

DPIIT aims to carry out trade negotiations between India and UK based on the suggestions provided by the stakeholders. The recommendations had to be submitted by 10th August 2021.

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However, should you have any queries, require any assistance, or clarifications, with regard to anything contained in this newsletter please feel free to contact us at [iptm@singhania.in](mailto:iptm@singhania.in) or [ipp@singhania.in](mailto:ipp@singhania.in) or connect with our team:



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<sup>i</sup> [Ministry of Commerce & Industry Press Release - Simplified Patent and Copyright Registration](#)

<sup>ii</sup> [Sulphur Mills Limited V. Dharamaj Crop Guard Limited and Anr.](#)

<sup>iii</sup> [Bristol-Myers Squibb Ireland Unlimited Company & Ors. V. Micro Labs Limited](#)

<sup>iv</sup> [Zed Lifestyle Pvt Ltd. V. Hardik Mukeshbhai Pansheriya & Ors.](#)

<sup>v</sup> [Meher Distilleries Private Limited V. SG Worldwide Inc.](#)

<sup>vi</sup> [Puma Se V. Ashok Kumar Trading As the Shoes Kart & Anr.](#)

<sup>vii</sup> [Sporta Technologies Pvt. Ltd. And Anr V. John Doe and Anr.](#)

<sup>viii</sup> [Yonex Co., Ltd. & Ors. V. Sumit Girdhar & Anr.](#)

<sup>ix</sup> [Gujarat Cooperative Milk Marketing Federation Ltd & Anr. V. Maruti Metals & Anr.](#)

<sup>x</sup> [Biswanath Hosiery Mills Limited & Anr. V. Micky Metals Limited](#)

<sup>xi</sup> [RDB and Company \(Hindu Undivided Family\) and Ors. V. Zee Entertainment Enterprises Ltd and Ors.](#)

<sup>xii</sup> [Viacom18 Media Private Limited V. www.Oreo-Tv.com and Ors.](#)

<sup>xiii</sup> [Glenmark inks agreement with Canadian biotech SaNOTize to commercialize Nitric Oxide Nasal Spray for COVID-19 treatment](#)

<sup>xiv</sup> [Suggestions from the Stakeholders and Industry Bodies on IPR issues w.r.t. India UK Enhanced Trade Partnership](#)