



INTELLECTUAL PROPERTY NEWSLETTER

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INTRODUCTION

We are thrilled to share Intellectual Property (IP) highlights from the final quarter of 2024, showcasing a perfect balance between tradition and innovation.

The last three months of the year 2024 saw significant developments in the sector, including trade mark and patent infringement cases, as well as the recognition of 'well-known' trade marks and geographical indication tags. The quarter witnessed several globally recognised brands fiercely defending their marks with LEGO prevailing against entity selling confectionary products; IndiGo alleging infringement over Mahindra's use of the similar alphanumerical to its "6E" mark, and Britannia reinforcing rights over its "Good Day". Alongside

this, tradition also took a centre stage as Gharchola sarees and Assamese heritage secured GI recognition, blending cultural pride with contemporary relevance. An interesting twist to these cases came with the Indian judiciary tackling pressing issues in technology and authorship, from ANI's clash with OpenAI that brought global AI debates to Indian soil, to Penguin Random House's efforts to safeguard author rights in the age of generative AI.

In this final chapter of 2024, we cannot wait for you to dive into the edition to drive through courtroom showdowns, tech triumphs, and the continuously evolving landscape of IP.




LONG FORM

POPULAR RESTAURANT CHAIN "SOCIAL" SUES STAR HOSPITALITY FOR TRADE MARK INFRINGEMENT


The Hon'ble High Court of Delhi ("**Delhi High Court**"), in the case of *Impresario Entertainment & Hospitality Pvt. Ltd. ("IEHP") v. Star Hospitality ("Star")*,¹ IEHP applied for an interim injunction to restrain Star from using the trade mark "SOCIAL AFFAIR" for their restaurant. IEHP claimed that the name was extremely similar to their trade mark and that Star was trying to take advantage of the goodwill and reputation earned by IEHP.

IEHP owns a chain of restaurants and bars under the popular trade mark "SOCIAL" and its iterations. The first restaurant under the trade mark "SOCIAL" was established by IEHP in Bangaluru in the year 2014, following which 53 restaurants have been established nationwide. IEHP's trade mark has become well-known due to their attempts to connect better with the area's locals by adding locality-specific prefixes to their name such as "Koramangala SOCIAL" and "Hauz Khas SOCIAL". The main lawsuit filed by IEHP was for permanent injunction for trade mark and copyright infringement which contained the plea for interim relief against Star.

IEHP's Trade Marks	Star's Trade Marks
<p style="text-align: center;">SOCIAL</p> 	<p style="text-align: center;">SOCIAL AFFAIR</p> 

The single-judge bench at the Delhi High Court granted an ex-parte interim injunction, citing the fact that it was clear that Star has taken on an almost identical trade mark and has tried to prove distinction merely by adding the suffix 'AFFAIR' to it. This does not dilute or negate the connection between IEHP and Star's restaurants. It was stated that Star had wrongly adopted the name "SOCIAL AFFAIR" for their restaurant and concluded that any social media marketing and advertisement using this name would likely confuse the public. Further, it was noted that IEHP is the prior adopter, registrant, and owner of the trade mark "SOCIAL", which has been in continuous use since its adoption. IEHP established a prima facie case in terms of trade mark infringement and therefore, they reserve the right to seek protection through an injunction.

DELHI HIGH COURT REINFORCED OVERALL COMMERCIAL IMPRESSION OF MARKS AS THE CORRECT APPROACH FOR COMPARISON OF TRADE MARKS

In the case of *Amba Shakti Steels Ltd. v. Sequence Ferro (P) Ltd.*,² Division Bench of the Delhi High Court ("**Division Bench**") held that the trade marks "AMBA" and "AMMAJI" were phonetically similar and there would be a likelihood of confusion between the two. The appellant was engaged in manufacturing and dealing in metals of ferrous and non-ferrous alloys under the trade mark "AMBA" / " AMBA" and claimed immense good will owing to continuous and prior use. The appellant alleged that the respondent's adoption of the

1. *Impresario Entertainment & Hospitality (P) Ltd. v. Star Hospitality*, 2024 SCC OnLine Del 6289

2. 2024 SCC OnLine Del 6179



infringing trade mark, was *mala fide* as they intended to pass off its goods as those of the appellant and take unfair advantage of appellant's goodwill.

The respondent advanced several defences, arguing first that the trade marks "AMBA" and "AMMAJI" had distinct etymological origins and meanings. They contended that the appellant had not approached the court with clean hands as they claimed to have become aware of the respondent's use of "AMMAJI" trade mark only in September 2023, despite having issued a cease-and-desist notice in August 2023. The respondent also asserted that "AMBA" was a commonly used term by third parties, negating any exclusive rights over it. Furthermore, the respondent averred that since the goods in question were high-value items, consumers were likely to exercise greater caution, thereby reducing the likelihood of confusion.

Single Judge of the Delhi High Court ("**Single Judge**") had previously found that the rival marks were not similar and that the appellant had not taken any steps to restrain other parties who were using similar marks. The Division Bench emphasized that the Single Judge erred in juxtaposing the trade marks and focusing on their differences. Instead, the correct approach was to assess the overall commercial impression of the marks from the perspective of an average consumer with imperfect recollection. The Division Bench dismissed the argument based on etymological differences and focused on the phonetic and visual similarities between "AMBA" and "AMMAJI", holding that the marks created a similar impression. Citing the principles laid down in *In Re E.I. du Pont de Nemours and Co.*,³ the Division Bench stressed on the importance of assessing the marks as a whole rather than dissecting individual elements.

Additionally, the Division Bench also highlighted that since the goods in question were identical, any similarity in the trade marks was more likely to confuse consumers. While the appellant's failure to act against other entities using similar marks was noted, the court held that this did not undermine the distinctiveness of the appellant's trade mark in this case. The Division Bench emphasized the need to protect consumer interests regardless of any delay by the appellant in initiating action. Consequently,

the Division Bench granted an interim injunction, restraining the respondent from using "AMMAJI" or any other deceptively similar mark to safeguard the appellant's goodwill and prevent consumer confusion.

TOY BRAND "LEGO" PREVAILED AGAINST A CONFECTIONARY PRODUCER IN A TRADE MARK INFRINGEMENT SUIT

The Hon'ble Madras High Court ("**Madras High Court**") revoked the trade mark registration of Hyderabad-based proprietor of the entity Leo Foods for its alleged similarity with the trade marks of Lego Juris A/S ("**Lego**").⁴ It was the contention of Lego that Leo Foods started using the very same LEGO mark for its confectionary products, Lego Cuteheart and Lego Coffybond, and thus clearly infringed upon Lego's prior trade marks. Lego had already filed a suit before the City Civil Court at Secunderabad, wherein the Learned Judge held that Lego enjoys a transborder reputation and the LEGO mark is a 'well-known' mark. Leo Foods preferred an appeal before the Telangana High Court and the same is pending. Hence, the rectification petitions were filed in the present matter under Section 57 of the Trade Marks Act, 1999 ("**Trade Marks Act**"), asserting that Leo Foods was unfairly leveraging its goodwill.

Lego, one of the largest brands in the toys and gaming industry, has operated under the trade mark "LEGO" since 1934 and enjoys global recognition and substantial sales in India amounting to INR 61.7 crores as of March 2023. Lego has also been declared as well-known trade mark in Taiwan, South Korea, Portugal, England, Germany, France, etc. and has also been recognised as the first reputable company in the world as per the report of RepTrak.⁵

3. 476 F.2d 1357, 177 USPQ 563 (CCPA 1973)

4. Lego Juris v. Gurumukh Singh, 2024 SCC OnLine Mad 4858

5. Global RepTrak 100 2024, <https://ri.reptrak.com/hubfs/2024%20Global%20RepTrak%20100/The%202024%20Global%20RepTrak%20100%20Report.pdf>; see also, Global RepTrak 100 2023, [https://ri.reptrak.com/hubfs/GRT2023_X%20\(5\).pdf](https://ri.reptrak.com/hubfs/GRT2023_X%20(5).pdf).



Leo Foods, however, argued that their adoption of the “LEGO” mark in the year 2000 was entirely independent and unrelated to the toy brand. They also contended that their registration fell under Class 30 (foods), whereas Lego’s mark is registered under Class 28 (toys), suggesting no overlap in business categories.

While the Madras High Court acknowledged the difference in the trade channels, it noted that the end consumers in both the cases to be young children. Given this overlap, the likelihood of confusion was deemed unavoidable. The Madras High Court also rejected Leo Foods’ claim of independent and innocent adoption of the mark, observing similarities in the colour scheme and style of the branding between the two companies. The assertions pertaining to a thorough search conducted by Leo Foods in the records of the Trade Mark Registry was found unconvincing, as it appeared the search was limited to confectionery-related trade marks, exposing its mala fide intentions.

Consequently, the Madras High Court held that Leo Foods’ use of “LEGO” infringed on the Lego’s rights and constituted an act of unfair competition. The adoption of the similar marks was seen as an attempt to exploit Lego’s established reputation. Accordingly, trade mark registration nos. 1073754 and 999049 were held liable to be removed.

LANDMARK JUDGMENT BY MP HIGH COURT ON TRADE MARK VIOLATION IN REUSED LIQUOR BOTTLES

The Hon’ble Madhya Pradesh High Court (“MP High Court”) delivered a significant judgment prohibiting the sale of liquor in reused bottles embossed with the brand name or logo of another company.⁶ The MP High Court ruled that such a practice constitutes trade mark infringement, highlighting concerns under the state’s foreign liquor rules. This ruling follows an appeal by Mount Everest Breweries Ltd. (“Mount Everest”) challenging a single-judge order directing the Commissioner of Excise (“Commissioner”) to revisit the dispute.

The Commissioner had earlier prohibited all liquor and beer bottling units from reusing glass bottles embossed with brand names or logos, even if the embossments were scratched or removed, citing trade mark concerns. The MP High Court restrained two beer companies from using old bottles originally manufactured by Mount Everest and embossed with their trade mark “STOK” and their panda logo. The court further noted that despite the companies affixing their own brand labels to these bottles, the embossed “STOK” mark and panda logo remained visible, creating a clear trade mark violation.

The companies argued that they sourced bottles from scrap dealers as a cost-effective and environmentally sustainable practice, affixing large labels of their own brands. They contended that the state’s excise and liquor laws does not explicitly prohibit the reuse of such bottles. They further claimed that the prohibition infringed upon their fundamental right to trade under Article 19(1)(g) of the Constitution of India.

The MP High Court rejected these arguments, stating that the freedom under Article 19(1)(g) is not absolute and cannot override mandatory provisions of the state’s excise laws. While the Commissioner did not ban the reuse of bottles outright, the court emphasized that bottles carrying two visible brands cannot be permitted. The court also declined to rule on whether embossed logos or brand names could be removed prior to reuse, leaving this issue for proper adjudication by the relevant authorities.

6. Mount Everest Breweries Ltd. v. MP Beer Products Ltd., 2024 SCC OnLine MP 7367

IndiGo FILES LAWSUIT AGAINST OVER THE USE OF "6E"



InterGlobe Aviation ("IndiGo"), operating under the brand name "IndiGo" and owner of other marks including the alphanumeric trade mark "6E", initiated a lawsuit against Mahindra & Mahindra ("Mahindra"), alleging trade mark infringement over the use of IndiGo's iconic "6E" trade mark, before the Delhi High Court.⁷ The airline argued that the "6E" trade mark has been a core element of its brand identity for the past 18 years, widely used in both its standalone form and variations across the various goods and services provided by IndiGo. IndiGo claimed that Mahindra's adoption of the trade mark "BE 6e" for its upcoming SUV could create confusion among consumers and dilute the distinctiveness of IndiGo's well-established goodwill and reputation accrued to the "6E" trade mark.

Mahindra argued that the rival trade marks are registered under entirely different categories, thereby reducing the likelihood of overlap or confusion. Mahindra further emphasized that its trade mark is "BE 6e," which differs from IndiGo's standalone "6E" trade mark when compared as a whole and pointed out that the stylistic and design elements of its trade mark further distinguish it, eliminating any potential for confusion.

While Mahindra maintains its position against IndiGo's exclusive claim to the "BE 6e" trade mark and intends to contest IndiGo's assertions, for now, Mahindra has voluntarily decided not to use the "BE 6e" trade mark. As an interim measure, the company has unilaterally rebranded the SUV as "BE 6" to avoid further conflict, until this suit is disposed of.

IndiGo's "6E" serves as a compelling example of an alphanumeric mark that has achieved distinctiveness within the aviation industry. As IndiGo's official IATA airline code, "6E" functions as a globally recognized identifier in the aviation sector. Furthermore, "6E" plays a crucial role in IndiGo's branding, being utilized for inflight services, loyalty programs, magazines, and even meal options. Consequently, in our understanding, it is reasonable to assert that within the aviation industry, the mark "6E" is synonymous with IndiGo. In essence, while IndiGo may have a strong case for acquired distinctiveness, the differing classes present challenges regarding the potential success of the case.

REGIONAL DIRECTOR HELD TO NOT HAVE THE AUTHORITY TO DECIDE ON OWNERSHIP OF TRADE MARK

In the case, *Panchhi Petha Store v. Union of India*,⁸ the Delhi High Court held that a Regional Director ("RD") under the Companies Act, 2013 ("Companies Act") does not have the authority to determine trade mark ownership while deciding an application under Section 16 of the Companies Act. The matter arose from the RD's rejection of the petitioner's application to get the name of Respondent No. 4's company removed from the Register of Companies. This rejection was based on the RD's observation that petitioner's company name incorporated a trade mark which was registered in the name of a Subash Chandra Goyal rather than the petitioner.

The petitioner argued that the RD's jurisdiction under Section 16 of the Companies Act is strictly limited to addressing cases of similarity in different company names, based on applications filed by the registered proprietor of a trade mark. The petitioner emphasized that the Section 16(1)(a) of the Companies Act allows the RD to act *suo moto* to rectify a name, but only when there is clear evidence of similarity in names. The said provision, on the other hand, enables a registered trade mark owner to apply for removal of the company name from the Register of Companies. In this case, the RD had acted on an application under Section 16(1)(b) of the Companies Act but, according to the petitioner, overstepped by examining the ownership of the trade mark rather than focusing solely on similarity in names. By adjudicating on trade mark ownership, the RD, according to the petitioner, acted beyond the jurisdiction conferred by Section 16.

In response, it was contended that the RD acted within its authority under Section 16(1)(b), asserting that the registrations were in the name of Subash Chandra Goyal and not the petitioner. The respondent also emphasized that Section 16 empowers the RD to rectify company names that resemble existing company names or trade marks, thereby preventing public confusion.

7. Interglobe Aviation v. Mahindra Electric Automobile Ltd) CS(COMM) 1073/2024

8. W.P.(C) 773/2019

The Court, relying on precedents such as *CGMP Pharmaplan (P) Ltd. v. Regional Director, Ministry of Corporate Affairs*,⁹ and *Montari Overseas Ltd. v. Montari Industries Ltd.*,¹⁰ clarified that the RD's role under Section 16 of the Companies Act does not extend to determining trade mark ownership in a way the Intellectual Property Division of a Court would. It was held that the RD's authority is limited to ensuring that a company's name does not create public confusion because of resemblance with another, without deciding on any dispute with respect to ownership of trade marks.

DELHI HC HALTS UNAUTHORIZED STREAMING OF 'RADIO MIRCHI' CONTENT, GRANTS PERMANENT INJUNCTION

The Delhi High Court has issued a permanent injunction against unauthorized broadcasting and transmission of audio content owned by Entertainment Network (India) Limited ("**Entertainment Network**"), a radio broadcaster, which owns and operates FM radio stations across the country under the trade marks "Mirchi", "Radio Mirchi" and "Sunday Suspense" ("**EN Trade Marks**").¹¹ Entertainment Network sought a permanent injunction against third party websites which are engaged in unauthorised, unlicensed and illegal broadcasting, transmitting and communicating of the audio content owned by Entertainment Network, resulting in copyright infringement of its sound recordings and trade mark infringement of the EN Trade Marks. It further alleged that these third parties' URLs use well known platforms operated by entities such as YouTube and Apple Distribution to broadcast their content.

On 22 December 2022, the Delhi High Court had issued an interim injunction, where it had directed the intermediary platforms including YouTube to take down the infringing URLs, which was duly done. The matter then proceeded ex-parte with the case as there was no written submissions filed by these websites within the prescribed time. Expounding the scope of Order VIII Rule 10 of Code of Civil Procedure, 1908, which empowers the court to pronounce judgment against a party if no written statement has been filed by the party within the required time, the matter was decreed in favor of Entertainment Network. The Delhi High Court, thus, restrained the third-party websites from broadcasting/transmitting/communicating its copyrighted content on any webpage, app or intermediary platform and issued an injunction against the use of the EN Trade Marks.

TRADE MARK TUSSLE BETWEEN BRITANNIA AND DESI BITES OVER THE 'GOOD DAY' MARK.

The Delhi High Court recently intervened in a trade mark dispute between Britannia Industries Ltd. ("**Britannia**") and Desi Bites Snacks Pvt. Ltd. & Ors. ("**Desi Bites**"), granting an ex-parte interim injunction to Britannia.¹² The dispute arose from Desi Bites' alleged unauthorized use of Britannia's well-known trade mark "GOOD DAY" for selling products such as *soan papdi* and *papad*.

Britannia, a leading Fast-Moving Consumer Goods company, has been using the trade mark "GOOD DAY" since 1986 and holds registrations in multiple classes covering products like biscuits, bread, tea, flour, and confectionery. The trade mark was declared a well-known mark. Britannia emphasized its market dominance, citing revenues exceeding INR 16,000 crores and operations across 4.2 million retail outlets nationwide. Britannia claimed that Desi Bites' use of the trade mark "GOOD DAY" aimed to unlawfully capitalize on its goodwill and could mislead consumers into believing a false association between the two brands.

Britannia contended that this unauthorized usage constituted trade mark infringement under the Trade Marks Act. The company argued that the trade mark "GOOD DAY" is integral to its brand identity, and Desi Bites' actions could dilute its reputation, causing irreparable harm. The matter proceeded ex-parte as Desi Bites failed to appear before the court.

The Delhi High Court, recognizing the prima facie case made by Britannia, observed that irreparable harm could result without immediate relief. It restrained Desi Bites from distributing, selling, advertising, or trading any products under the "GOOD DAY" trade mark until further orders. Additionally, the defendants were directed to remove infringing product listings from their websites and e-commerce platforms. The matter is listed for further hearing on 10 March 2025.

9. 2010 SCC OnLine Del 2387

10. 1995 SCC OnLine Del 864

11. Entertainment Network (India) Limited v. <https://tunein.com/podcasts/arts-culture/podcasts/bangla-sunday-suspense-p2082186/> and ors., CS(COMM) 880/2022

12. Britannia Industries Ltd v. Desi Bites Snacks P Ltd & Ors., CS(Comm) 983/2024

Plaintiff	Defendants
	



SHORT FORM

ANI FILES SUIT OF COPYRIGHT INFRINGEMENT AGAINST PRODUCERS OF NETFLIX SERIES "IC 814: THE KANDAHAR HIJACK"

In September 2024, the Asian News International ("ANI") filed a copyright and trade mark infringement suit against the producers of the Netflix series "IC 814: The Kandahar Hijack" before the Delhi High Court. ANI alleged that the series used its footage, which included clips of Prime Minister Atal Bihari Vajpayee, General Pervez Musharraf, and terrorists, without obtaining the necessary permissions or licenses. ANI contended that the unauthorized use of its copyrighted material and trade mark violated their rights but also tarnished ANI's reputation, particularly given the criticisms surrounding the show. In response, the producers' attorney argued that the footage was lawfully sourced from two companies for a consideration of approximately INR 1 crore. Ultimately, ANI decided to withdraw the lawsuit, leading to the cancellation of the two scheduled hearing dates.

SONY GRANTED PATENT FOR ADVANCED AUDIO SYNTHESIS TECHNOLOGY IN VIDEO GAMES

Sony has been granted a patent titled "Systems and Methods for Generating and Applying Audio Baseline Functions" for an advanced audio synthesis technology for video games.¹³ This technology aims to automatically generate in-game sound effects and potentially even music, without human intervention. Video games rely on a wide array of soundscapes to engage and maintain player interest. However, repetitive or monotonous sounds can lead to the player growing bored of the game. Additionally, generating sound effect for every single object manually is time consuming and involves a large amount of trial and error because the modification applied may not always result in a convincing result. To address this, Sony has introduced a system that creates multiple audio variations without human intervention, enhancing immersion and realism. The system relies on neural networks to create variations of sound effects based on pre-existing audio files and eliminates repetitive sounds by generating unique variations in real time. By automating the generation of sound effects and music, this technology significantly reduces development time and effort, while enhancing the overall gaming experience.

PATENT GRANTED FOR DEVICE THAT RECORDS REAL-TIME DATA ON PLANT ENERGY DYNAMICS.

A team of researchers from colleges affiliated with Calicut University has been granted a patent for their groundbreaking invention, the Botanic Energy Harvesting Device.¹⁴ The device, which is designed to attach directly to plant leaves, uses advanced sensors to monitor vital plant functions, including photosynthesis and carbon dioxide exchange. The data collected is processed in real-time, providing insights to optimize plant growth, improve agricultural productivity, and enhance understanding of plants' role in carbon sequestration. The research was a joint effort by Kayeen Vadakkan, Meena K. Cheruvathur, and Blessy Santhosh of the Marian Centre for Advanced Research, St. Mary's College, Thrissur, with financial support from DST-FIST, alongside Mashoor K., Head of the Department of Biotechnology at EMEA College of Arts and Science, Kondotty.

The device is able to monitor carbon assimilation in real time, shedding light on how plants reduce atmospheric carbon, a useful factor in combating climate change. Additionally, by offering a more accurate understanding of plants' energy dynamics, the device has significant potential to enhancing agricultural practices and promoting environmental sustainability.

DELHI HIGH COURT PERMANENTLY RESTRAINS COUNTERFEITERS FROM INFRINGING LOUIS VUITTON TRADE MARK

The Delhi High Court has permanently restrained defendants from infringing Louis Vuitton's ("LV") registered trade marks and passing off counterfeit products.¹⁵ LV filed a commercial suit after discovering counterfeit products bearing its "LV" marks sold through stores in Surat and online platforms linked to subdomains of "www.selloship.com." Investigations revealed that the defendants operated via social media, e-commerce platforms, and Telegram groups to market these products.

13. Sony Patents Technology That Will Make Every Sound in the Game Unique, ITC.ua (Dec. 20, 2024), <https://itc.ua/en/news/sony-patents-technology-that-will-make-every-sound-in-the-game-unique/>.

14. Device Giving Real-Time Data on Plants' Energy Dynamics Gets Patent, Times of India (Dec. 20, 2024), <https://timesofindia.indiatimes.com/city/kozhikode/device-giving-real-time-data-on-plants-energy-dynamics-gets-patent/articleshow/113167251.cms>.

15. Louis Vuitton Malletier v. Abdulkhaliq Abdulkader Chamadia, 2024 SCC OnLine Del 8010

Despite an interim injunction in October 2023, the defendants failed to respond or appear in the proceeding before the Delhi High Court. Proceeding ex-parte, the Delhi High Court held that the defendants had no defence and had misused LV's marks to deceive consumers, violating the Trade Marks Act. It ordered the delivery of all seized counterfeit goods, directed the blocking of infringing subdomains, and permitted LV to recover litigation costs.

DELHI HIGH COURT RESTRAINS 'ROGUE APP' FROM STREAMING STAR'S CONTENTS

Star India Private Limited ("**Star India**"), the owner of 'Disney+ Hotstar' filed for a permanent injunction against Tajkir Mohammad Tanvir's 'King Pro+' ("**King Pro+**"), a mobile application and related websites in the Delhi High Court.¹⁶ Star India alleged that KingPro+ and related websites were making its exclusive content available for download to the public. Star India claimed exclusive rights over the content displayed on the platform, thus arguing that King Pro+'s developers/owners were liable for infringement of Star's copyrighted works under Section 51(a)(ii), Section 51(b), and Section 51(a)(i) of the Copyright Act, 1957 ("**Copyright Act**"). The Delhi High Court observed that Star India had made out a prima facie case and the 'balance of convenience' laid in its favor. Subsequently, the Delhi High Court restrained the King Pro+ from hosting, streaming, distributing, or making available to the public any of Star India's copyrighted content. The King Pro+ further ordered Name Cheap Inc., a domain name registrar to lock and suspend the domain name registration of King Pro+'s associated websites, its URLs, and UIs. The Delhi High Court also directed disclosure of personal details of KingPro+, and directed telecom service providers to block access to the infringing websites. Further, the Delhi High Court directed PayPal to freeze the accounts of KingPro+'s owner. The matter is now listed for a subsequent hearing on 27 February 2025.

INFLUENCER DIRECTED TO TAKE DOWN VIDEO AMOUNTING TO TRADE MARK INFRINGEMENT AND DISPARAGEMENT

In *Zydu Wellness Products Ltd. v. Prashant Desai*,¹⁷ plaintiff sought to restrain the defendant from disparaging their trade mark, claiming a video posted by the defendant falsely stated that two scoops of Complian, a powdered milk energy drink, contained 40-50 grams

of sugar, when the actual sugar content was 16.665 grams. It was argued that the defendant acted recklessly, violating advertising guidelines and causing reputational harm to the plaintiff. The defendant countered that his statements were educational and accurate stating the plaintiff only accounted for added sugar and failed to consider other sources of sugar. The defendant denied any ulterior motive or improper intent behind the videos.

Pursuant to examining the qualifications of the defendant, the Delhi High Court observed that the defendant lacked any expertise or association with the health industry and, hence, did not have the authority to make claims about a subject outside his domain. The court held that the plaintiff had established a *prima facie* case that the impugned video was baseless, unverified, and without substance. The defendant's unauthorized use of the plaintiff's registered trade mark, "COMPLAN", and the reproduction of the plaintiff's label and packaging in the video were found to be infringing and detrimental to the plaintiff's goodwill. Consequently, the court passed an interim order directing the defendant to remove the impugned video.

MADRAS HC ORDERS TELEGRAM TO BLOCK SCAM CHANNELS IMPERSONATING PHONEPE

In the case between PhonePe Private Limited ("**PhonePe**") and Telegram FZ LLC ("**Telegram**"), the Madras High Court ordered Telegram to block and delete channels impersonating PhonePe that redirect users' payments to scammers.¹⁸ This directive follows a lawsuit filed by PhonePe, alleging that such impersonating channels on Telegram were causing financial losses to the company and its users. In response, Telegram's counsel stated that the platform cannot proactively detect and block these impersonations but assured that it would remove any reported channels upon receiving complaints from users and PhonePe. The Madras High Court instructed PhonePe to notify Telegram of any spoofed content or copyright infringement by providing the URLs so that Telegram can act swiftly. The order stated that, upon receiving an email complaint, Telegram must immediately block or delete the identified channels.

16. *Star India Private Limited v. Tajkir Mohammad Tanvir (King's Pro+) And Ors*, 2024 LiveLaw (Del) 1201

17. 2024 SCC OnLine Del 7018

18. *PhonePe Private Limited v. Telegram FZ LLC*, O.A. No. 839 of 2024 in C.S. (COMM.DIV.) No. 218 of 2024

FORD PATENTS ADVANCED TRACK AND OFF-ROAD MONITORING SYSTEM FOR FUTURE EVS

Ford Global Technologies LLC (“**Ford**”) has taken a significant step toward enhancing the versatility of electric vehicles (“**EVs**”) by filing a patent for an innovative track and off-road monitoring system, filed on 17 November 2021, and published on 15 October 2024, under serial number 12115880.¹⁹ This development aligns with Ford’s growing focus on integrating advanced technologies in EVs, addressing challenges specific to off-road and track performance. The system uses an adaptive prediction mechanism to analyse various data points, such as driver performance requirements, terrain type, historical energy consumption, and other parameters. Hence, it provides drivers with precise predictions on their travel range under unique conditions like off-road trails or race tracks, where battery efficiency is typically impacted. With EV adoption on the rise, this innovation could provide critical value to users by ensuring reliability and functionality in off-road conditions.

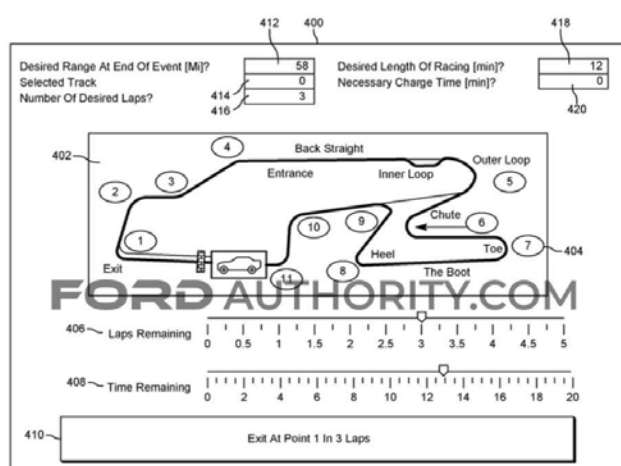


FIG. 4

PENGUIN RANDOM HOUSE RESTRICTS AI TRAINING’S USE OF COPYRIGHTED WORKS

Penguin Random House (“**PRH**”), the world’s largest trade publisher, has amended its copyright statement globally to address the surge in Generative AI and to help protect authors’ intellectual property from being used to train large language models (LLMs) and other artificial intelligence (AI) tools. The revised statement of copyright prohibits using its works for AI training and states as follows:

“No part of this book may be used or reproduced in any way for the purpose of training artificial intelligence technologies or systems.”

This policy applies to all new titles and reprints, exempting PRH’s works from the EU Copyright Directive’s text and data mining exception, codified in Germany.²⁰ PRH’s move has been praised by groups such as the Author’s Licensing and Collecting Society, though critics argue that the authors’ contracts must also be revised to fully protect the authors. PRH has claimed to use AI selectively and responsibly while defending intellectual property rights. According to a study commissioned by the Copyright Initiative, the reproduction of works using models for Generative AI constitutes copyright-relevant reproduction, and is therefore illegal.²¹

BHOPAL-BASED ORGANIZATION RESTRAINED FROM UNAUTHORIZEDLY USING THE GENERIC MEDICINE BRAND JAN AUSHADHI

The New Delhi District Court granted permanent injunction against *Jan Aushadhi Sangh* (“**Respondent**”), a Bhopal-based organization, for using a name that closely resembles ‘Jan Aushadhi’ a trade mark registered under the *Pradhan Mantri Bhartiya Janaushadhi Pariyojana* (“**PMBJP**”) of the Department of Pharmaceuticals.²² The New Delhi District Court held that the Respondent deliberately used a similar name to mislead the public and exploit the reputation associated with PMBJP’s trade mark. The court prohibited the Respondent from using the impugned mark in any capacity and directed them to hand over all materials bearing the impugned mark to the Pharmaceuticals and Medical Devices Bureau of India for destruction. The Respondent was ordered to pay INR 10 lakhs in damages. The court emphasized the importance of protecting government initiatives from such violations and warned against future misuse of similar trade marks, stating that such actions would invite severe penalties. This decision serves as a precedent in protecting intellectual property tied to public welfare initiatives.

19. Future Ford EVs Could Get Track and Off-Road Monitoring Systems, Ford Authority (Oct. 15, 2024), <https://fordauthority.com/2024/10/future-ford-evs-could-get-track-and-off-road-monitoring-systems/#&gid=1&pid=1>.

20. Urheberrechtsgesetz [UrhG] [Copyright Act], §§ 60d, 44b (Ger.)

21. Study for Rights Holders: AI Training Is Copyright Infringement, Heise Online (Sept. 6, 2024), <https://www.heise.de/en/news/Study-for-rights-holders-AI-training-is-copyright-infringement-9860466.html>.

22. Government of India, Press Information Bureau, “Title of the Press Release” (Dec. 20, 2024), <https://pib.gov.in/PressReleasePage.aspx?PRID=2065478>.

BOMBAY HC GRANTS TEMPORARY INJUNCTION TO "CAMPA" AGAINST "JHAMPA" TRADE MARK INFRINGEMENT

The Hon'ble Bombay High Court ("**Bombay High Court**"), in a trade mark infringement case between the parties Reliance Retail Limited ("**Reliance**") and Sirajuddin and Beauty Bibi ("**Sirajuddin**"),²³ granted a temporary injunction in favor of Reliance by restraining Sirajuddin from the mark "JHAMPA". Reliance, one of the largest retailers in India, acquired the trade mark, "CAMPA" in 2022 along with the goodwill.

Upon a perusal of the rival marks and the products thereunder, the similarity of the artwork seemed apparent. Further, owing to the similar and overlapping nature of the goods and services associated with both marks, a likelihood of confusion among consumers was highly probable.

Interestingly, the trade mark application for "JHAMPA" was filed by Sirajuddin only after receiving a cease-and-desist notice, indicating an attempt to capitalize on the reputation of the "CAMPA" brand. In view of these, the Bombay High Court observed that the registered trade mark "CAMPA" and its artistic works were protected under the Trade Marks Act and restrained Sirajuddin from using "JHAMPA" in relation to non-alcoholic beverages or any other products until the disposal of the suit.

Reliance 'CAMPA' Products



Sirajuddin 'JHAMPA' Products



DELHI HIGH COURT ISSUES PERMANENT INJUNCTION FOR SELLING COUNTERFEIT MARLBORO CIGARETTES

The Delhi High Court issued a permanent injunction against a paan shop, restraining it from selling counterfeit Marlboro cigarettes and ruling in favour of Philip Morris Brands Sarl ("**Plaintiff**") who is the registered proprietor of the 'MARLBORO' trade mark.²⁴ There are several sub-brands and trade marks which were used by the Plaintiff in their products sold all over the world (collectively "Plaintiff's Marks"), including India. The defendant was involved in selling cigarettes and other tobacco products, and was found to have also sold counterfeit products under the name "MARLBORO ADVANCE COMPACT".

Plaintiff's Goods



Defendants' Impugned Goods



23. Reliance Retail Ltd. v. Md. Sirajuddin and Beauty Bibi, 2024 SCC OnLine Bom 3549

24. Philip Morris Brands Sarl v. Rahul Pan Shop, 2024 SCC OnLine Del 8435

The Delhi High Court recognised the Plaintiff's continuous and long use of its marks and concluded that the cigarette packages were identical. The court further held that the defendants unfairly exploited the goodwill and reputation associated with the Plaintiff's Marks by selling counterfeit products designed to mislead consumers. The cigarette packaging was found to be identical in design, colour, and arrangement, resulting in a violation of both trade mark and copyright laws. Despite an interim injunction in July 2023 and the seizure of counterfeit goods, the defendants failed to appear or contest the proceedings. Consequently, the Delhi High Court issued an ex-parte order permanently restraining them from using the infringing marks.

INOX INDIA FIGHTS RESTRICTIVE REGISTRATION CERTIFICATE CLAUSES

The Delhi High Court recently addressed an appeal filed by INOX India Ltd. ("**INOX**") challenging restrictive remarks in its copyright registration certificate dated 23 January 2023 and sought rectification of the same.²⁵ The remarks stated that the copyright for the artistic work would not apply if it was used concerning goods or services or if reproduced over 50 times through an industrial process. During the hearing before Justice Mini Pushkarna, the Registrar of Copyrights agreed to remove the remarks and issue a revised certificate within four weeks. Despite the main issue being settled, INOX highlighted the ongoing problems with the Registrar of Copyrights' website, stating that it contributed to the initial issue. They thus sought permission to formally raise these issues with the Registrar of Copyrights. The Delhi High Court granted the permission and reiterated the need for the re-issuance of the rectified Registration Certificate.

THE BURNING QUESTION OF TRAINING LARGE LANGUAGE MODELS USING COPYRIGHTED CONTENT REACHES INDIA

Asian News Network ("**ANI**") sued OpenAI Inc. ("**Open AI**"), creator of the advanced AI powered chatbot – ChatGPT, for illegally storing its copyrighted content, before the Delhi High Court.²⁶ ANI has alleged that OpenAI used its copyright protected news content to train models for ChatGPT, without obtaining prior permission or license. It was further alleged by ANI that by using the trained model, OpenAI is able to replicate, or closely summarize ANI's exclusive content,

even emulating the manner of its presentation. OpenAI has also been accused of misattributing news content and maliciously accrediting it with news events that never even occurred. Considering the complexity and wide range of issue involved, the Delhi High Court has appointed two amicus curiae to assist in the matter. This is the first instance where the globally debated topic of training large language models using copyrighted content is being adjudged by an Indian court. OpenAI is facing several similar lawsuits in various countries.

HONORING HERITAGE: RECENT GI TAGS FOR GHARCHOLA AND 8 ASSAMESE TRIBAL PRODUCTS

Geographical indication ("GI") tags have been granted to the traditional Gujarati wedding sari, *Gharchola*, and 8 products used by the Assamese BodoTribe.

- i. **Gharchola:**²⁷ The *Gharchola* is traditionally woven in auspicious colours such as red, maroon, green and yellow and is worn during Hindu and Jain weddings. More recently, weavers have begun adding modern designs and techniques into the *Gharcholas* in an attempt to blend tradition and contemporary appeal. The GI tag was awarded during the "GI and Beyond – *Virasat Se Vikas Tak*" event in New Delhi, hosted by the Ministry of Textiles.
- ii. **Bodo Jou Gwran, Maibra Jwu Bidwi,²⁸ and Bodo Jou Gishi:**²⁹ These three rice beer variants were filed by the Bodo Traditional Brewers Association for GI recognition with the Geographical Indication Registry in Chennai. '*Bodo Jou Gwran*' is the beer with the highest alcohol content (16.11%); '*Maibra Jwu Bidwi*' is revered as welcome drink; and '*Bodo Jou Gishi*' is a traditional fermented beverage. Bodoland has had a tradition of drinking fermented rice beer since time immemorial and has religious connotations surrounding Lord Shiva.
- iii. **Bodo Napham:**³⁰ The Association of Traditional Food Products successfully secured GI tag for *Bodo Napham*, which is a dish of fermented fish. It involves an anaerobic fermentation process which spans over two or three months.

25. Inox India Ltd. v. Registrar of Copyrights, 2024 SCC OnLine Del 7848

26. ANI Media Pvt Ltd V. Open AI Inc & Anr, Cs(Comm)-1028/2024

27. Geographical Indication no. 838

28. Geographical Indication no. 970

29. Geographical Indication nos. 969

30. Geographical Indication no. 964

iv. Bodo Ondla:³¹ This is a rice powder curry that is flavoured with ginger, garlic and salt. This, along with 'Bodo Gwkha' (the *Bwisagu* festival dish), and 'Bodo Narzi' (semi-fermented food made with jute leaves) have also received the GI tag

v. Bodo Aronai:³² the Association of Traditional Bodo Weavers successfully secured GI tag for Bodo Aronai, a cloth that is known for its cultural significance. The cloth is 1.5-2.5 meters long and 0.5 meters wide.

GRANTING OF 'WELL-KNOWN TRADE MARK' STATUS

- i. **"GIRNAR"**: The Bombay High Court has recognized the tea brand "Girnar" as a 'well-known trade mark' under the Trade Marks Act. This decision arose from a dispute between Girnar Food & Beverages Pvt. Ltd. ("**Girnar**") and TNI Plastics³³, wherein Girnar sought a permanent injunction to prevent TNI Plastics from using its trade mark. Girnar argued that the unauthorized use could mislead consumers and harm its reputation and goodwill. The Bombay High Court's recognition reinforces the strong brand identity of Girnar within India's tea market.
- ii. **"BHARATBENZ"**: The Intellectual Property Office of India has granted 'well-known trade mark' status to 'BharatBenz', the flagship brand of Daimler India

Commercial Vehicles, a subsidiary of Daimler Truck AG, Germany.³⁴ BharatBenz offers a wide array of trucks and buses, blending German technology with Indian engineering to serve diverse industries. This recognition underscores BharatBenz's market prominence and brand value in the commercial vehicle sector.

- iii. **"MOCHI"**: The Bombay High Court has declared 'Mochi', owned by Metro Brands Ltd. ("**Metro**"), as a 'well-known trade mark' under the Trade Marks Act. The ruling came after Metro obtained an interim injunction against Nice Shoes LLP ("**Nice Shoes**") for using the mark "Desimochi."³⁵ Metro argued that adding "Desi" to "Mochi" was insufficient to distinguish the brands, leading to potential consumer confusion. While Nice Shoes claimed that "Mochi" is a generic term for cobblers in India, the Bombay High Court held the marks were too similar and directed the transfer of the domain "www.desimochi.com" to Metro, safeguarding the brand's identity and goodwill.

31. Geographical Indication no. 966

32. Geographical Indication no. 958

33. Girnar Food & Beverages Private Limited v. TNI Plastics, 2024 SCC OnLine Bom 3429

34. BharatBenz conferred with 'Well-Known Trade mark' status by the Intellectual Property Office, India, (Nov 5, 2024), <https://asia.daimlertruck.com/en/press-releases/india/bharatbenz-conferred-with-well-known-trademark-status-by-the-intellectual-property-office-india/>

35. Metro Brands Ltd. v. Nice Shoes LLP and Ors., 2024 SCC OnLine Bom 3647



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