

IP & Beyond

**PATENT AND STANDARD ESSENTIAL
PATENTS**



In This Edition...

About DPIIT Chair & About CIPR, MNLU-N	03
The SPRIHA Scheme	04
Message From The Head of CIPR	05
Deep Dive	06
IP News Roundup	09
Case in Focus	22
National News	27
National & International News	30
Government Initiatives	31
Acknowledgments	32



About:

THE DPIIT-IPR CHAIR

The Department for Promotion of Industry and Internal Trade (DPIIT) is a division under the Ministry of Commerce and Industry, Government of India. Formerly known as the Department of Industrial Policy & Promotion,



उद्योग संवर्धन और आंतरिक व्यापार विभाग

**DEPARTMENT FOR
PROMOTION OF INDUSTRY AND
INTERNAL TRADE**

it was renamed as DPIIT when internal trade was added to its mandate, officially commencing operations under its new name on January 27, 2019. DPIIT also oversees intellectual property rights (IPR), including patents, trademarks, copyrights, and geographical indications, ensuring strong legal protection for innovators and businesses, and significantly contributes to India's economic growth and global competitiveness. The DPIIT Chair is a research and policy advisory position established by the Department for Promotion of Industry and Internal Trade (DPIIT) in collaboration with leading academic institutions in India. The objective of the DPIIT Chair is to conduct research, provide policy recommendations, and support the government in areas related to industrial policy, intellectual property rights (IPR), trade, startups, and innovation. DPIIT, under the Ministry of Industry and Commerce, selected Maharashtra National Law University, Nagpur for the establishment of the DPIIT IPR Chair, reinforcing its role in advancing intellectual property research and policymaking.

THE CENTRE FOR INTELLECTUAL PROPERTY RIGHTS- MNLU, NAGPUR

The Centre for Intellectual Property Rights (CIPR) is one of the Advanced Legal Research Centres of Maharashtra National Law University, Nagpur, dedicated to promoting human, social, and commercial values through specialised socio-legal research in the field of Intellectual Property Rights (IPR). Established in 2017, the CIPR aims to enhance awareness of IPR, and support policymakers in their decision-making by conducting both empirical and non-empirical research. Since its inception, the CIPR has been actively engaged in IPR discourse at both national and international levels. It also hosts the DPIIT IPR Chair, a prestigious academic position supported by the Government of India, which conducts specialized research, advises policymakers, and advances legal education in intellectual property. Through its initiatives, CIPR plays a vital role in enhancing India's IPR landscape, promoting innovation, and supporting businesses in safeguarding their intellectual property.

SPRIHA:

SCHEME FOR PEDAGOGY & RESEARCH IN IPRs FOR HOLISTIC EDUCATION & ACADEMIA



In May, 2016, the Department of Industrial Policy & Promotion (DIPP), now known as Department for Promotion of Industry and Internal Trade (DPIIT), of Ministry of Commerce and Industry had launched an all-encompassing vision document 'National IPR Policy'. The Policy had established an institutional framework to implement, monitor, and review laws governing IP rights under the Intellectual Rights Policy Management Framework (IPRPM).

India, where knowledge drives holistic development, recognises the need to raise awareness about IPRs as 'marketable financial assets' that boost entrepreneurship, and socio-economic & cultural progress. The Policy laid down seven objectives, namely,

- 1) IPR Awareness: Outreach and Promotion,
- 2) Generation of IPRs,
- 3) Legal and Legislative Framework,
- 4) Administration and Management,
- 5) Commercialization of IPR,
- 6) Enforcement and Adjudication, and
- 7) Human Capital Development.

Objective 7 of the Policy focuses on strengthening human resources and institutions for IPR teaching, training, and research. In today's dynamic IPR scenario, thought leadership and expertise in the IPR field are of paramount importance in generation of IP assets. To achieve this, the Policy has recognised "*continuous policy research*" with an interdisciplinary perspective, both nationally and internationally, as essential in developing human and institutional capacity across varied sectors such as academia, industry, and the judiciary. A key element of Objective 7.2 is to strengthen IP Chairs at educational institutions, ensuring quality IPR education and research. In this backdrop, the Ministry of Human Resource and Development (MHRD) had formulated a Central Scheme of Intellectual Property Education, Research and Public Outreach (IPERPO) which set up IPR Chairs in recognised educational institutions for the growth and development of IPR research and education. Subsequently, a review of the scheme revealed several issues to the Scheme. For instance, the Institutions were unable to find a qualified IPR Chairs, no qualifications for eligibility of IPR Chairs were provided, and activities of most IPR Chairs were limited to organising seminars/workshops or delivery of few lectures.

MESSAGE FROM THE HEAD OF CIPR:

About SEPs:

Standard Essential Patents (SEPs) refer to patents that claim technologies indispensable for the implementation of standardized protocols, particularly in the telecommunications sector, such as 2G, 3G, and 4G. Given their essential character, SEP holders are bound by the obligation to license such patents on Fair, Reasonable, and Non-Discriminatory (FRAND) terms. The recent issue of '*IP & Beyond*' offers a detailed examination of the increasing salience of SEP enforcement in India, drawing attention to landmark judicial developments, including *Ericsson v. Xiaomi* and *Ericsson v. Lava*.



These decisions underscore the reciprocal obligations of SEP holders and implementers: the former must extend bona fide licensing offers, while the latter are required to engage in genuine and transparent negotiations. Indian courts have demonstrated an increasingly assertive approach, not only by recognizing the availability of injunctive relief and damages in cases of non-compliance, but also by imposing heightened scrutiny on adherence to FRAND commitments.

The newsletter addresses these judicial developments within broader thematic concerns: the evolution of judicial practice toward stricter scrutiny and robust remedial frameworks, the persistent difficulties surrounding SEP license negotiations and the role of industry standards, the complex interface between SEP enforcement and competition law, and the pressing need for enterprises including emerging startups to embed SEP and FRAND compliance within their intellectual property strategies. Beyond the domestic context, the discussion also engages with international policy dimensions, referencing the United States Trade Representative's (USTR) 2025 *Special 301 Report*, which highlights systemic challenges in SEP enforcement across multiple jurisdictions, including India and China. These challenges ranging from barriers to market access and weak enforcement infrastructures to the persistence of counterfeiting reflect the global dimension of SEP governance. Collectively, the insights presented in the newsletter underscore the growing international importance of SEPs, the transnational complexities of ensuring compliance, and the necessity of continual policy refinement and judicial clarity to foster innovation, interoperability, and balanced competition in the digital economy.

Deep Dive:

NAVIGATING PATENT DISPUTES AND SEPs: WHAT INDIAN BUSINESSES MUST KNOW

The Growing Urgency Around Patent Protection in India

Artificial Intelligence (AI) has emerged as one of the most in India's fast-paced innovation curve, it's not unusual to see breakthrough products cloned overnight. This dark fact reminds us why it is so important—particularly when patents cover fundamental technologies—to protect intellectual property. Recent litigation has illustrated what can happen when companies fail to properly account for SEPs, including being blocked from selling products or being sued and ordered to pay big damages.

One such landmark case is *Ericsson v. Xiaomi*, the Delhi High Court granted an *ex parte* injunction prohibiting Xiaomi from importing into India, selling, advertising, manufacturing or using terminal devices that use the Ericsson patented 3G or EDGE technology. This case served as a reminder of the significant perils associated with disregarding our commitments associated with SEPs, as well as the hazards related to ignoring India's developing patent rules

Understanding SEPs and Their Role in Industry Standards

SEP patents (Standard Essential Patents) are patents that are considered indispensable for implementing a particular technology standard type — like 2G, 3G, or 4G for instance — these standards help to guarantee that devices and systems from different manufacturers can work and communicate together. In the interest of fair use of the patents, SEPs generally should be licensed under FRAND terms, which is to say, on Fair, Reasonable, and Non-Discriminatory terms.

But SEPs are enforced for more than just giving licenses. Recent Indian court decisions illustrate that companies need to make legitimate attempts to negotiate licences, or

they could face fines. Courts are increasingly likely to examine whether the terms that were offered on FRAND terms were reasonable — and whether both sides negotiated in good faith.

Ericsson v. Lava: A Turning Point in SEP Enforcement

The judgment of the Delhi High Court in *Ericsson v. Lava International Ltd.* rendered on 3rd April 2024 was another nail in the coffin of strict enforcement of SEP commitments. Lava was charged for the infringement of SEPs, which is based on 2G and 3G technologies, by Ericsson. Lava had reportedly adopted the technology in its mobile handsets without obtaining a licence, following which Ericsson had sought royalty damages.

The judgment found in favour of Ericsson, validating the patents, and their damage claim. It reiterated that companies needed to actively pursue SEP licenses before launching products into the market that include SEPs. Said offers, according to the court, are FRAND-range as they are in line with the later that similarly placed peers of Lava have accepted.

Lava's alternative defense that some "top-down" method of determining royalty should be used rested on unproved assumptions. Rather, the Court opted for the "comparable license" approach. Ericsson had signed similar agreements with other comparably positioned entities, as the terms that Lava was offered were the same as those in such previous agreements. The Court held that Ericsson had been fair and reasonable in its FRAND standard.



SEPs

Deep Dive:

NAVIGATING PATENT DISPUTES AND SEPS: WHAT INDIAN BUSINESSES MUST KNOW

Negotiating SEP Licences in the Indian Context

Indian courts are getting bolder to enforce patent claim especially on SEPs. Also, as we have seen in the Ericsson cases, patentees do not have to continue to endure infringement while patentees conduct lengthy negotiations. They can also be entitled to legal remedies such as damages for past use, and if negotiations are not conducted in good faith, they could even get immediate injunctive relief from parties who are willing to cosy up to such measures.

Moreover, the courts have recognized that while SEP holders must offer FRAND licenses, the accused party also has a duty to respond sincerely and promptly. The judgment in *Ericsson v. Lava* made it clear that Standard Setting Organizations (SSOs), while promoting interoperability, do not verify the essentiality or validity of SEPs. Therefore, infringers may still challenge patents, but they must also participate meaningfully in licensing discussions.

The decision in *Ericsson v. Lava* also clarified that it is not the role of SSOs, which aim to facilitate inter-operability, to verify essentiality and/or validity of SEPs. Factually, in fact, we know that existing courts allow sellers of products to demand proof of the essentialness of the patents before being required to agree to FRAND standards; Furthermore, courts are known to have found agreements between SEPs owners and licensees can only be demanded when both sides engage in talks in an honest and timely manner before licensing. So, infringers can still challenge patents, but they must also engage in licensing negotiations in good faith.

The Intersection of Patent Law and Competition Law

Similarly, SEP litigation in India draws attention to a pivotal legal intersection, that of the Patents Act and the Competition Act. Whereas the Patents Act protects the interest of creator, by virtue of the Competition Act there shall not be any unfair trade practices in the market. This dual jurisdiction means that companies alleged to be engaging in patent abuse or licensing discrimination could find themselves in the crosshairs of both the courts and competition regulators. Navigating this divide requires legal clarity and strategic foresight.

What Indian Businesses Must Keep in Mind

Companies whose products incorporate standardized technology have to make SEP compliance their top priority. Compliance with engineering or manufacturing standards is not sufficient — legal diligence is equally important. Notobtaining licenses to all of the SEPs, can result in damages and injury to reputation.

Moreover, given the heightened scrutiny of FRAND licensing by the courts in India, it would be prudent for companies to at all times keep their licensing negotiations transparent and well-documented having regard to the prevalent industry licensing practices.

Finally, it is also crucial to follow the progress in India's patent system in relation to SEP enforcement and FRAND terms. Startups should consult a legal expert as early as possible in the product development process to avert litigation down the road and stay on the right side of the law.

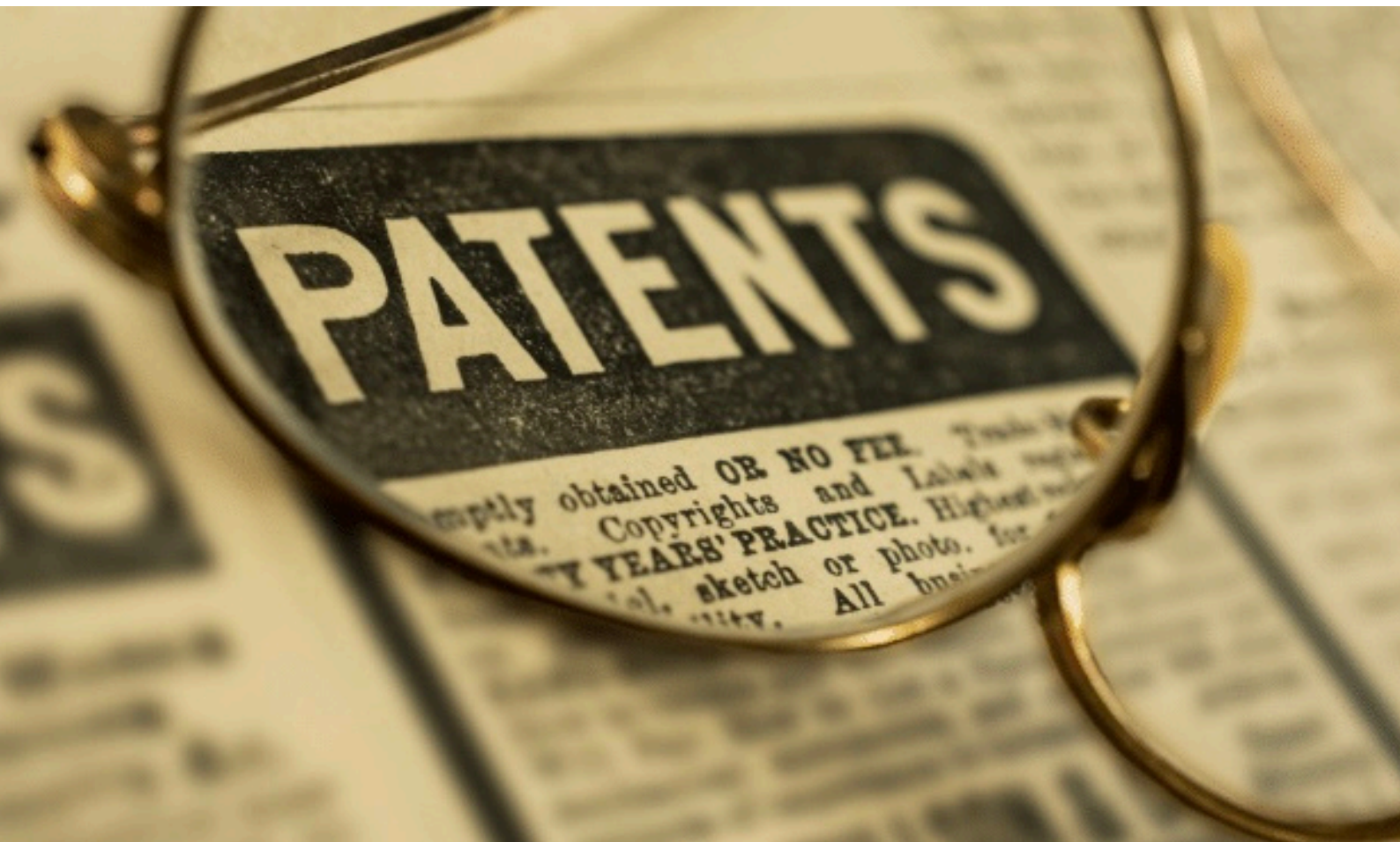
Deep Dive:

NAVIGATING PATENT DISPUTES AND SEPS: WHAT INDIAN BUSINESSES MUST KNOW

Closing Note: SEP Awareness is No Longer Optional

The trends in the recent SEPs cases in India is that intellectual property is becoming increasingly difficult to enforce. Patent holders, such as Ericsson, are more aggressively pursuing their rights, and judges are more willing to enter injunctions and impose large damages.

Businesses, to circumvent the legal and business consequences witnessed in the Ericsson-Xiaomi and Ericsson-Lava cases, need to integrate SEP compliance and FRAND negotiations as a core component of their IP strategy. By doing so, they are not only protecting themselves from risk—but also contributing to a more balanced and innovation-friendly legal ecosystem.



IP News Round-up:

POWERING INNOVATION – INDIA'S IP BOOST FOR STARTUPS AND MSMEs

While India attempts to secure its position as an innovation hub globally, the country's intellectual property system is undergoing certain changes that represent a positive shift toward inclusivity and access. The backbone of the economy, the Startups and MSME's (Micro, Small and Medium Enterprises) have been given due consideration through IP initiatives directed at them by the Government.

Draft National India IP Policy 2025 – A Vision of Tomorrow

The Department for Promotion of Industry and Internal Trade (DPIIT) is in the process of finalizing a National Intellectual Property Policy. Their primary concern is that of facilitation of protection to given IP Framework for Startups by simplification, expansion of access, digitization, and provision of monetary and non-monetary rewards. One of the milestones sought after achieving is ensuring that India's IP laws keep pace with the infrastructure and innovation economy.

Tailor Made Government Schemes for the Startups

DPIIT Startup's are currently entitled to some IP benefits such as:

- Reduced Costs: 80% discount on filings of patents and 50% on trademarks posited.
- Acceleration of Processing: Enhanced examination and expedited patent granting periods.
- Facilitated IP Services: Drafting and filing of application at the facilitator by government approved delegates. Their service fees are borne by the state, removing a major financial hurdle.



IP News Round-up:

POWERING INNOVATION – INDIA'S IP BOOST FOR STARTUPS AND MSMEs

These benefits are part of the Startup India Intellectual Property Protection (SIPP) scheme meant for fostering new businesses by helping them protect their innovations during the formative stages of their career.

Nurturing Grassroots Intellectual Property (IP) Awareness

As part of the National Intellectual Property Awareness Mission (NIPAM), more than 2.4 million students, researchers, and other entrepreneurs have already been made aware of the IP domain. This initiative marks an important change in strategy by building a culture aimed at innovation and IP in the later stages of academia and business.

Inviting Global Expertise towards Local Empowerment

In an important development, WIPO (World Intellectual Property Organization) and FICCI (Federation of Indian Chambers of Commerce and Industry) have collaborated to set up an IP for Business Centre in India. This center is expected to provide consultancy, teaching, and international IP materials to Indian start up's and MSME'S which well integrate them into the world's innovative network.

The Importance of This Development

The ability to protect IP is very vital in trying to turn new ideas and inventions into something of economic value. These recent policies make it easier to gain claim over IP and at the same time encourage certain sectors to innovate and grow, who for so many years, lacked strong IP support. There is significant amount of proactiveness in the evolved IP regime which indicates India's strong attitude towards governing the country and to align law with its economic ambition.



IP News Round-up:

KEY JUDICIAL DEVELOPMENT IN COPYRIGHT LICENSING

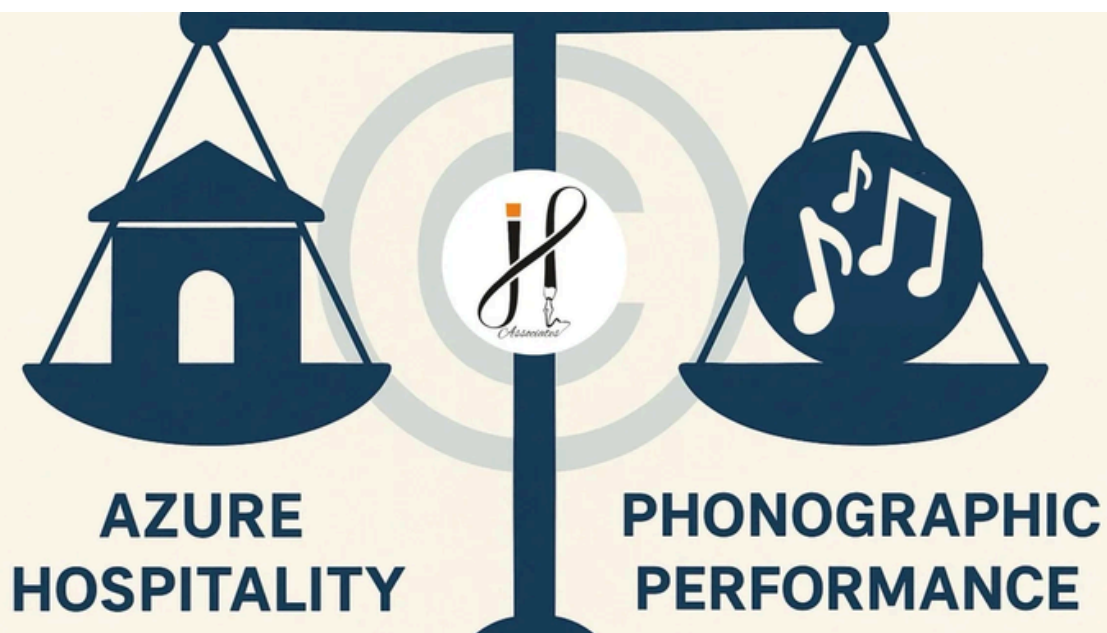
Delhi High Court Restrains PPL from Issuing Sound Recording Licenses

In a major judgment concerning the music licensing industry in India, the Hon'ble Delhi High Court, in the matter of Azure Hospitality Pvt. Ltd. v. Phonographic Performance Limited (PPL)](PPL) A division bench of the Court, laid down that PPL has no authority to issue licenses in respect of sound recordings unless it is registered with the Copyright Act, 1957 or operates through a registered society.

The dispute started when PPL alleged that it was the sole owner of the public performance rights in a number of sound recordings and sued Azure Hospitality on the ground that it had to obtain a licence and pay royalty to PPL for playing its repertoire. Azure disputed this requirement, claiming that PPL did not have the legal authority to grant such licenses.

Summary of Court's Ruling:

- The Court went in favour of Azure Hospitality and held that PPL has no independent right to issue licence of the sound recordings. This is because PPL is not registered with the copyright office as a copyright society under Section 33 of the Copyright Act, 1957.
- The Court highlighted that the extent of entitlement represented by the licensing rights in copyrighted works that includes sound recordings can only be performed by a registered copyright society or at least through one. Since PPL had renounced its registration as a copyright society in 2013 itself and was not operating through any registered society, it was unauthorized, the court said.



IP News Round-up:

KEY JUDICIAL DEVELOPMENT IN COPYRIGHT LICENSING

- Thus, the Court enjoined PPL from granting any sound recording licences in the course of its business until it satisfies the statutory criteria.

Summary of Court Update:

After the decision of the High Court an appeal was preferred before the Hon'ble Supreme Court of India. The Interim was provided in favour of the Azure Hospitality with respect to the stay of Delhi High Court's order, which had directed Azure to pay royalty charges as per the rate card for the respective region by the Recorded Music Performance Limited (RMPL).

In view of this interim stay, Azure Hospitality can provisionally still play PPL's repertoire to the public without being made, by RMPL / PPL, to license the same after making payment of license fee.

Why This Matters:

This judgment defines and strengthens the legal position on copyright licensing in India. It reiterates that only copyright societies can be registered for copyrighted content like sound recordings and that these can only be controlled by them or through them. This brings openness, regulatory oversight and compliance with the statutory requirements on copyright administration.

Implications:

- Those currently licensing or intending to license sound recordings should check to see if the licensors are compliant with the law.
- They should require copyright owners or licensing bodies such as PPL to satisfy minimum criteria of registration and compliance before allowing for any licensing activity.

This ruling sets an important legal precedent in the legal world of copyright licensing and is going to continue to send ripple effects through the business world- from restaurants and venues to music.



IP News Round-up:

THE "CHAMPAK" TRADEMARK DISPUTE: WHEN A ROBOTIC DOG SPARKED LEGAL ACTION AGAINST BCCI

The IPL this season did not have just some intense cricketing rivalries, but a law battle which nobody would have imagined off the field. At the heart of it all is “Champak” — not a player, but an artificially intelligent robotic dog that the BCCI has unveiled as part of its upgraded production and marketing initiatives. What began as a viral stunt has since escalated into a trademark dispute after one of India’s oldest publishing houses filed a suit over the concept.

Background: A Name That Struck a Nerve

The robot dog (Champak) was named following a public poll online. But Delhi Press Patra Prakashan, which publishes the children’s magazine “Champak” (in printed form since 1968), took strong issue with the use. The magazine’s title is a registered trademark under Class 41 of the Trademarks Registry, which deals with publication services including books, newspapers and pamphlets.

The Legal Dispute: Trademark Infringement Alleged

The publishing house has sued BCCI in the Delhi High Court for infringement, passing off, dilution and claiming damages. It is learnt from the order issuing notice to BCCI, the main legal dispute seems to be around unauthorized use of a mark identical to a registered trademark, although the publisher’s claims under Section 29(4) of the Trade Marks Act, 1999 seem notably absent.



IP News Round-up:

THE "CHAMPAK" TRADEMARK DISPUTE: WHEN A ROBOTIC DOG SPARKED LEGAL ACTION AGAINST BCCI

Section 29(4) Explained: A Missed Opportunity?

Section 29(4) of the Act comes into play when a trademark is used, on goods or services considering that the trademark is well known in India and the usage unfairly exploits or undermines the character of the original mark. In this instance since the BCCI is using the term Champak for a robot dog rather than for a publication citing Section 29(4) would have been relevant. Unfortunately, it appears that the publisher overlooked including or did not plead this section in their filings. This omission of such a crucial argument would weaken their case because the issue in question, robotics and publications, fall under different categories of use although both are included in Class 41.

Arguments and Observations in Court

BCCI reportedly pointed out during the hearings that the name "Champak" was constituted out of public voting and not determined by the board. It further contended that the name is predominantly linked to a character from a famous Indian television show, rather than the children's magazine.

Justice Saurabh Banerjee of the Delhi High Court is said to have stated that the publisher failed to prove any potential commercial harm or direct connection with the BCCI, and that there are no pleadings under Section 29(4). If this is so, then it highlights a major procedural error on the part of the plaintiff.

What Lies Ahead?

The situation of the case remains murky because the High Court's order did not expound on the parties' exhaustive arguments. Much of what is known stems from media reports and should be treated with caution until official documents or further orders are obtained.

This incident emphasizes the need for trademark law to continue evolving within this fast-changing context of marketing and digital innovation. The answer to whether a name arising from public engagement constitutes infringement will likely depend on the strength and strategy of legal arguments, which seem to have been miscalculated by the publisher at this stage.

IP News Round-up:

TRADEMARKING 'OPERATION SINDOOR': A LEGAL AND ETHICAL CONTROVERSY UNFOLDS

In a recent turn of events, the phrase "Operation Sindoor" related to India's military response to the Pahalgam terror attack has become the subject of a legal and ethical debate. Numerous groups, including big companies and individuals, have filed trademark applications for the phrase, which has resulted in public outcry and legal disputes.

"Operation Sindoor" refers to the precise strikes by the Indian Armed Forces in Pakistan and Pakistan-occupied Kashmir, as a retaliation for the terrorist attack on Pahalgam which occurred on April 22, 2025, in which 26 people lost their lives. The name of the operation, "Sindoor," represents the red vermilion powder applied by married Hindu women, symbolizing the trauma and loss faced by the people who suffered due to the terrorist attack.

Trademark Applications Spark Controversy

After the public announcement of the operation, at least 12 entities filed trademark applications for "Operation Sindoor" under Class 41, covering education, entertainment, and cultural services. These included Jio Studios of Reliance Industries. Reliance later withdrew its application, claiming it was a mistake by a junior employee acting without authority.

Public Interest Litigation Filed

As a reaction to the trademark applications, Advocate Dev Ashish Dubey filed a Public Interest Litigation (PIL) in the Supreme Court against any attempts at commercialization of "Operation Sindoor." The PIL contends that the phrase carries profound emotional relevance and that its commercial exploitation would be an affront to national sentiments and the sacrifices made by soldiers' families.

Legal Grounds Cited

The PIL refers to Section 9 of the Trade Marks Act, 1999, which prohibits the registration of trademarks that are deceptive, scandalous, or likely to hurt public sentiments. The petitioner argues that by registering the trademark "Operation Sindoor", the stipulated rules would be infringed and a worrying example would be set.



IP News Round-up:

TRADEMARKING 'OPERATION SINDOOR': A LEGAL AND ETHICAL CONTROVERSY UNFOLDS

Current Status and Implications

The Supreme Court, at this point, has not come to any decision on the PIL. The matter is of high importance as it addresses the connection between the rights of intellectual property, national security, and the views of the public. It is similar to the concept of being very careful while dealing with commercial and national interests, which might not be compatible.

The trademark battle concerning "Operation Sindoor" not only determines the issue of how to protect intellectual property but also addresses the sensitivity of the nation's feelings. We will witness industry representatives, business organizations and public interests groups keenly following the legal proceedings to gauge how the judiciary handles this difficult matter.

USTR RELEASES 2025 SPECIAL 301 REPORT ON INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT

An annual study evaluating the sufficiency and efficacy of intellectual property (IP) protection and enforcement among U.S. trading partners, the Office of the United States Trade Representative (USTR) has published its 2025 Special 301 Report.

Evaluating more than 100 nations, this year's report points out major IP framework, enforcement system, and market access constraints. While 18 more are classified under the Watch List for continuous IP-related issues, eight countries—including China, India, Indonesia, and Mexico—have been put on the Priority Watch List.

Key Developments:

- Mexico: Unresolved IP concerns—especially under the USMCA framework involving insufficient enforcement against counterfeiting, inadequate protection of pharmaceutical IP, and weak copyright laws—have caused Mexico to be raised to the Priority Watch List.

IP News Round-up:

USTR RELEASES 2025 SPECIAL 301 REPORT ON INTELLECTUAL PROPERTY PROTECTION AND ENFORCEMENT

- China: Critics still charge China with insufficient IP obligation under the Phase One Agreement. Ongoing problems are forced technology transfers, internet piracy, counterfeiting, and malicious faith trademarks.
- Indonesia: Indonesia battles increasing local counterfeit manufacture and changing sales to internet platforms. The study draws attention to poor border enforcement, unclear copyright exemptions, and inadequate patent control.
- Vietnam: Though improving in criminal enforcement, Vietnam is still a significant centre for online piracy. Brazil is also being watched for slow patent processes and lack of modernisation of copyright laws.

Cross-Cutting IP Concerns:

- The main copyright issue still worldwide is online piracy.
- Many areas still lack sufficient border and criminal enforcement against counterfeiting.
- Forced IP transfers, especially in China, still impede equitable market access.
- The EU's geographical indications policy causes worry about its exclusionary consequences for U.S. trademark owners.
- Several countries face criticism over pharmaceutical and medical device IP enforcement, impacting innovation and access.

Public Engagement and Background:

Extensive public involvement characterises the Special 301 review, required by Section 182 of the Trade Act of 1974. USTR invited public contributions and conducted a hearing on February 19, 2025, so enabling government, business interests, and civil society organisations to express their opinions.

With Ukraine's review on hold due to ongoing conflict, 26 nations have been designated on either the Priority Watch List or Watch List this year.



IP News Round-up:

UK HIGH COURT REVOKES ASTRAZENECA'S SPC AND PATENT FOR DAPAGLIFLOZIN

AstraZeneca's patent (EP 1 506 211) and Supplementary Protection Certificate (SPC) for dapagliflozin, a crucial active component of its diabetes drug Forxiga, have been declared invalid by the UK High Court in a landmark ruling. Another significant ruling on the developing legal concept of plausibility in pharmaceutical patents was rendered in [2025] EWHC 1012 (Pat).

Key Highlights:

- The case focused on SPC/GB13/021, which is still in effect (including its paediatric extension) until May 13, 2028, even though the patent expired in 2023.
- The second SPC, SPC/GB14/050, which covers a combination of metformin and dapagliflozin, is scheduled to expire on May 14, 2028.
- The patent's disclosure was deemed implausible, which led to its revocation. The judge concluded that the patent's omission of experimental data and assay results compromised the validity of the therapeutic effects that were purported.
- The decision stressed that subsequent research cannot be used to support the patent's validity at the time of filing, even if dapagliflozin proves to be an effective treatment in the end.
- This differs from the EPO's Enlarged Board of Appeal decision in G 2/21, which allows for greater flexibility with regard to post-published evidence, but it is consistent with earlier UK case law (such as Apixaban and Pregabalin).
- In order to limit sales of its generic version in the UK, AstraZeneca had previously secured a preliminary injunction against Glenmark. Until a final decision is made, this injunction is still in effect.
- The business is also embroiled in a legal battle against Teva and Generics regarding medications containing dapagliflozin.
- With approval for the treatment of heart failure, chronic kidney disease, and type 2 diabetes, Forxiga continues to be a vital product for AstraZeneca.

Takeaway:

This decision demonstrates the UK's stringent approach to pharmaceutical patent plausibility. The ruling creates uncertainty for SPC holders and emphasises the differences between UK and EU patent practices, even though AstraZeneca has stated that it intends to appeal.

IP News Round-up:

SUPREME COURT CLARIFIES COPYRIGHT VS. DESIGN PROTECTION IN INDUSTRIAL ART

The Supreme Court of India has clarified the long-contested line separating copyright and design protection in a landmark ruling in *Cryogas Equipment Pvt. Ltd. v. Inox India Ltd.* (2025). The main question is: under the Designs Act of 2000, when does an artistic creation that is used in manufacturing lose its copyright and turn into a "industrial design"?

The Dispute

The Dispute Inox claimed copyright infringement against Cryogas for allegedly stealing engineering drawings for cryogenic gas tanks. Cryogas contended that the issue is transferred to design law because, according to Section 15(2) of the Copyright Act, copyright expires when an artistic creation is utilised in industrial products with more than 50 reproductions.

Legal Background

The Court re-examined the case, starting with the *Microfibres* case (2006) and moving on to later decisions such as *Mattel* (2008) and *Dart Industries* (2007). These rulings have emphasised time and time again that copyright cannot be claimed indefinitely once a creative work is incorporated into a mass-produced product; only time-bound design protection is applicable.

The Two-Pronged Test

The Supreme Court established a precise two-step test to resolve future disputes:

1. Art vs. Design: Was the piece always meant for industrial use, or was it made as stand-alone art? In the latter case, copyright expires after 50 reproductions and Section 15(2) is applicable.
2. Functional Utility: Determine whether the work has substantial functional value if it is deemed an industrial design; if not, it might not even be eligible for registration as a design under the Designs Act.

Practical Impact

This decision stops businesses from claiming a lifetime monopoly over commercially produced designs by exploiting copyright as a legal loophole. The ruling maintains the time-limited protection of industrial designs while safeguarding legitimate artists.

It's interesting to note that the Court passed up the chance to interpret Section 52(1)(w), which exempts industrial use of artistic drawings, and left that for another time. The Significance of It

IP News Round-up:

SUPREME COURT CLARIFIES COPYRIGHT VS. DESIGN PROTECTION IN INDUSTRIAL ART

Why It Matters?

This ruling reaffirms that a work's intended use must align with its IP protection. A factory blueprint for 100 identical petrol tanks does not have copyright, but a mug featuring the Mona Lisa does. It is anticipated that the decision will help courts, artists, and companies successfully balance copyright and design rights.

DRAFT GUIDELINES FOR EXAMINATION OF COMPUTER- RELATED INVENTIONS (CRI), 2025 – AN ANALYSIS

The Draft Guidelines for Examination of Computer-Related Inventions (CRI), 2025, the first revision since 2017, was just published by the Indian Patent Office. The brief 21-day (14 working-day) consultation period, which is open for public comments until April 15, 2025, has sparked concerns due to the complexity of the issue and the quick development of tech-driven innovations.

Key Highlights and Concerns:

- **Recent Case Law Inclusion:**

The draft makes an effort to include court rulings from cases like *Ericsson v. Lava*, *Microsoft Technology Licensing*, and *Ferid Allani*. The use of overlapping concepts such as "technical effect," "technical contribution," and "innovative technical advantage," despite their intended consistency, actually causes more confusion than clarity. These terms have been defined differently by courts, which has caused misunderstandings regarding their use.

- **Blurring of Section 3(k) and Inventive Step under Section 2(1)(ja):**

Section 3(k) prohibits the patentability of simple computer programs, business processes, and algorithms. But the draft's use of phrases like "technical advance" and "technical effect," which are also present in inventive step jurisprudence, begs the question of whether the inventive step threshold and the exclusion test under 3(k) are being confused. Whether meeting a "technical effect" releases a claim from exclusion or only qualifies it for additional inventive step analysis is not made clear in the draft. Applicants may face double examination obstacles as a result of this dual filtering.

IP News Round-up:

DRAFT GUIDELINES FOR EXAMINATION OF COMPUTER-RELATED INVENTIONS (CRI), 2025 – AN ANALYSIS

- **Selective and Conflicting Use of Case Law:**

The draft makes selective use of cases that dealt with software-based claims, such as OpenTV v. Controller and BlackBerry v. Controller. These cases adopt opposing stances: OpenTV reiterated strict scrutiny under 3(k), while BlackBerry backed the granting of software patents when integrated into hardware. The draft's attempt to be consistent may be compromised by its failure to resolve these discrepancies.

- **Lack of Clarification on Excluded Categories:**

How differences between algorithms, computer programs, and business methods impact examination standards is not adequately covered in the guidelines. Inconsistent practices across applications could result from this ambiguity.

Conclusion:

The 2025 draft guidelines are a positive step in updating a crucial area of patent law, but they don't provide enough legal clarity. Unpredictable results could arise from Section 3(k)'s failure to precisely define the parameters of patent-eligible subject matter and its lack of guidance on how to resolve conflicting precedents. Clarification on overlapping legal tests would greatly strengthen this framework and encourage innovation.



Case in Focus:

Delhi High Court Cracks Down on Unauthorized Use of 'Andaz Apna Apna' IP

The Delhi High Court has issued a broad interim order prohibiting more than 30 entities from using the intellectual property associated with the cult classic 1994 Hindi film *Andaz Apna Apna*. The order is in response to a civil suit brought by Vinay Pictures, the production company behind the film.

Background of the Dispute

Vinay Pictures, represented by Shanti Vinaykumar Sinha, the late producer Vinay Sinha's legal heir, claimed that the film's intellectual property was widely used for commercial purposes without permission across a variety of platforms, including:

- The title of the film;
- Dialogues and literary works;
- Dramatic characters;
- Artistic works and visual content;
- Domain names that mimic famous phrases
- Artificial intelligence-generated videos and merchandise such as T-shirts, mugs, posters, and other items.

According to reports, the defendants were making money off of these violations without requesting any licenses or permissions.

Platforms Involved and Scope of Infringement

A detailed list of more than 70 infringing URLs hosted on well-known e-commerce sites, including Flipkart, Meesho, Etsy, and Desertcart, was provided by the plaintiff. It was alleged that these URLs were unlawfully marketing or selling merchandise and content that was inspired by or derived from the movie.

Court's Observations and Interim Relief

When considering the case, Justice Amit Bansal observed that the plaintiff had the advantage of convenience. The Court recognised that these illegal actions might give the public the false impression that the infringing goods were formally associated with or approved by the owners of the rights.

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Consequently, the Court granted an ex parte interim injunction:

- Prohibiting the named defendants from producing or disseminating any content that is the same as or modified from the movie, including digital, merchandise, and AI-generated materials.
- Directing third parties like Google LLC, Flipkart, and Meesho to remove content that violates intellectual property rights.
- Directing the platforms to reveal the identities of the uploaders and infringers and to block access to the infringing materials.

Dynamic Injunction & Further Relief

Along with the temporary remedy, the Court issued a dynamic injunction to stop future attempts at infringement, expanding the protection to include mirroring or redirecting URLs. Additionally, it gave the plaintiff the freedom to impose any further infringers that might be found later.

Conclusion

In the context of classic films whose cultural and economic value endures for decades, this case highlights the judiciary's changing approach to protecting intellectual property rights in the digital age. The Court's intention to future-proof IP rights enforcement in light of technological advancements, including AI-generated content, is reflected in the dynamic injunction.

Delhi High Court Reiterates: Foreign Trademark Registration No Guarantee for Indian Protection

The Delhi High Court recently upheld territoriality in trademark law by ruling that a trademark's registration in another nation does not entitle its holders to registration in India. The ruling was part of a dispute between a Chinese company looking to register the mark "FLORASIS" in India and the Indian pharmaceutical behemoth Mankind Pharma. The Delhi High Court recently upheld territoriality in trademark law by ruling that a trademark's registration in another nation does not entitle its holders to registration in India. The ruling was part of a dispute between a Chinese company looking to register the mark "FLORASIS" in India and the Indian pharmaceutical behemoth Mankind Pharma.

Case in Focus:

Delhi High Court Reiterates: Foreign Trademark Registration No Guarantee for Indian Protection

The Background of the Case

Since 1995, Mankind Pharma, a prominent participant in the Indian pharmaceutical industry, has used the trademark "FLORA" for its pharmaceutical goods. It protested against a Chinese company (Respondent No. 1) registering the trademark "FLORASIS" with the Indian Trademark Registry.

The Deputy Registrar of Trademarks (Respondent No. 2) had initially approved the registration in spite of Mankind's objections, stating:

- The respondent's application's bonafide nature;
- Previous foreign registrations for "FLORASIS";
- The phonetic and visual differences between "FLORA" and "FLORASIS";
- The mark has a distinct identity in the Indian context due to the use of Mandarin characters.

Mankind Pharma contended that:

- Despite their differences, the products are distributed through comparable channels and belong to the same general category of pharmaceuticals;
- There are significant structural, phonological, and visual similarities between "FLORASIS" and "FLORA";
- Given their limited memory, the typical Indian consumer might view "FLORASIS" as a continuation of the Mankind brand;
- The addition of Mandarin elements and the suffix "SIS" alone does not produce enough uniqueness, especially in the pharmaceutical industry where courts demand more stringent scrutiny.

The Court's Findings

In rendering a decision, Justice Saurabh Banerjee supported Mankind's objection and declared:

- The terms "FLORA" and "FLORASIS" are misleadingly similar to those of the typical consumer;
- It was incorrect for the Deputy Registrar to give foreign registrations too much weight;
- The right to obtain the same mark in India is not automatically conferred by registration in other jurisdictions;
- Given that neither the general public nor those in the trade can decipher the Mandarin character added to "FLORASIS," it lacks distinctiveness in the Indian context;

Case in Focus:

Delhi High Court Reiterates: Foreign Trademark Registration No Guarantee for Indian Protection

- Even a slight chance of confusion justifies denying registration for trademarks pertaining to pharmaceuticals.

Final Order

The Deputy Registrar was instructed to remove the "FLORASIS" trademark entry from the Indian Trademark Register after the Court granted Mankind's appeal.

Why This Matters

The idea that trademark rights are territorial is supported by this ruling. Any proposed trademark must independently meet Indian legal requirements, regardless of foreign registrations or sincere intentions. The bar for preventing consumer confusion is much higher, particularly in delicate industries like pharmaceuticals.

Federal Circuit Upholds TTAB's Refusal to Register 'VETEMENTS' Mark as Generic and Descriptive

The United States Court of Appeals for the Federal Circuit (CAFC) upheld the Trademark Trial and Appeal Board's (TTAB) decision to deny registration of the mark "VETEMENTS" for a variety of apparel items in a landmark decision on May 22, 2025. Using the well-established doctrine of foreign equivalents, it was determined that the mark was generic and only descriptive, lacking distinctiveness.

For products like shirts, skirts, boots, and scarves, VetementsGroup AG had applied for trademark protection for "VETEMENTS," which is the French word for "clothing," in both standard character and stylised forms. The TTAB subsequently affirmed the USPTO examiner's decision to reject the applications.

Case in Focus:

Federal Circuit Upholds TTAB's Refusal to Register 'VETEMENTS' Mark as Generic and Descriptive

Given the context of its use in relation to clothing, the TTAB reasoned that an average American buyer would probably translate the French term into English because French is the second most taught foreign language in American schools and the fifth most spoken non-English language at home in the United States.

When determining whether non-English marks are descriptive or generic, the Board must translate them into English using the doctrine of foreign equivalents, which was upheld by the Federal Circuit. According to the court, this principle is applicable unless it is improbable that customers would translate the term. The court rejected the Vetements Group's claims that a minimum of 50% of Americans must be able to comprehend the foreign term. Instead, if a "appreciable"percentage of American consumers can translate, that is enough.

The court made a significant distinction between the current case and its previous ruling in *Palm Bay Imports v. Veuve Clicquot*, highlighting the contextual differences that made translation much more likely in this particular case, including the direct correlation between the French word and the clothing products.

Additionally, the court dismissed Vetements Group's argument that the mark was arbitrary or imaginative, concluding that a term's generic status is not protected by its use of a foreign language. The CAFC rejected the claim that the TTAB had reinterpreted the typical American buyer as someone who speaks French fluently, pointing out that because the term is common and not obscure, consumers "familiar with French" were more likely to translate it.

Lastly, there was no proof that the mark had gained enough secondary meaning in the US market to merit protection, according to the CAFC.

Important Takeaways:

- It is the applicant's responsibility to demonstrate that the foreign term would not be translated by American consumers.
- According to the theory of foreign equivalents, an "appreciable number" of people must speak the language; a majority of people are not required to.
- If the translation accurately expresses the product category or feature, a mark in a foreign language may still be considered generic or descriptive.

Case in Focus:

Federal Circuit Upholds TTAB's Refusal to Register 'VETEMENTS' Mark as Generic and Descriptive

- The context of the mark's use plays a central role in determining whether translation is likely.

This ruling emphasises how crucial it is to thoroughly assess foreign language terms for genericity and descriptiveness when applying for trademark protection in the United States.

This case serves as a reminder to IP professionals and brand strategists that uniqueness—as well as the capacity to get past possible translation-based objections—remain essential for creative branding involving foreign words.

National News:

- **Warner Bros. Discovery Split Affects Indian Viewers**

Warner Bros. Discovery will split into two companies by mid-2026—one focusing on streaming and studios (like HBO and DC Studios), and the other on global networks (like CNN and TNT Sports). While a global move, it could affect Indian licensing and access to HBO and CNN content.

- **Fresh Plea Against YouTuber Mohak Mangal**

Delhi court issues notice to Mangal and Google over alleged copyright and trademark infringement involving ANI's content. A Delhi court issued notices to Mohak Mangal and Google LLC in ANI's suit alleging unauthorized use of ANI's video content in YouTube videos. The court declined interim relief and listed the case for July 26. This follows a prior case where Mangal removed remarks calling ANI's licensing practices extortionate.

- **Kerala High Court on Movie Ticket Pricing**

Admitted a PIL challenging unregulated ticket pricing in multiplexes; seeks state's reply by July 1. The Kerala High Court admitted a PIL challenging the lack of regulation in multiplex ticket pricing. The petitioner pointed out that states like Tamil Nadu and Karnataka have capped prices, but Kerala hasn't. The state has been asked to respond by July 1.

National News:

- **Allahabad HC on Online Gaming Regulation**

Directed UP government to set up a regulatory panel to curb online betting and addiction-related harms. The Allahabad High Court directed the UP government to form a committee to regulate online gaming and betting, citing rising concerns over addiction, financial harm, and illegal activity. A progress report has been sought.

- **Patanjali Case Quashed**

Uttarakhand HC quashes misleading ad case against Baba Ramdev, citing procedural and evidentiary flaws. The Uttarakhand High Court quashed summons against Patanjali Ayurved, Ramdev, and Balkrishna, holding that the complaint lacked specific allegations or expert evidence about the ads being misleading.

- **Google Play Billing Case: Madras HC**

Court refuses to dismiss Testbook's contractual challenge to Google's billing system, setting up a detailed hearing. The Madras High Court refused to dismiss Testbook Edu's suit challenging Google's mandatory Play Store billing policy. It ruled the dispute was contractual and must proceed to trial. Google was directed to deposit 25% of the fine.

- **Bombay HC Upholds ₹24 Crore Suit**

Held that no formal summons is needed in transferred commercial suits once the defendant appears. The Bombay High Court rejected filmmaker Firoz Nadiadwala's plea to quash a ₹24 crore commercial suit. The Court held that once a defendant appears in a transferred commercial suit, formal summons aren't required.

- **Delhi HC on Trademark Contractual Rights**

Ruled that trademark rights acknowledged by contract survive after termination of business relations (NEWGEN case). The Delhi High Court ruled that once a party has acknowledged another's trademark rights by contract, it cannot later claim independent use. The injunction against the use of the 'NEWGEN' mark was upheld.

- **Epifi Outspeeds F1 Trademark in Court**

The Delhi High Court cancelled Formula One's "F1" trademark in Class 36 (financial services) on the grounds of non-use in India, following a rectification petition filed by Epifi. The Court reiterated that mere registration without genuine and continuous use of the mark cannot confer exclusive rights, aligning with the principle of "use it or lose it" under Indian trademark law.

National News:

- **Use of ‘Parliament’ Not Exclusive to Government**

In a significant ruling, the Delhi High Court clarified that the term "Parliament", when used generically and not suggesting government affiliation, is not barred under the Emblems and Names (Prevention of Improper Use) Act, 1950. This decision enables businesses to use the word legitimately in trademarks, supporting commercial free expression.

- **IndiaMART vs PUMA – Platform Rights Clarified**

The Delhi High Court lifted an injunction against IndiaMART, which had been restrained from using PUMA's trademark in drop-down menus. The Court held that such use is permissible nominative fair use, provided IndiaMART exercises due diligence and complies with take-down obligations under intermediary liability principles.

- **ITC Nicotine Patent Rejection Set Aside**

The Calcutta High Court reversed the Patent Office's rejection of ITC's patent for a nicotine aerosol delivery device, holding that the Controller's reliance on Section 3(b) (public order/morality) was unsupported by evidence. The Court ordered a fresh examination, reinforcing judicial limits on morality-based objections in patent evaluation.

- **Kemin's Animal Feed Patent Clears Section 3(i)**

The Madras High Court upheld Kemin Industries' patent on an enzyme-based animal feed supplement, rejecting objections under Section 3(i) (methods of treatment). The Court held that the patent was a nutritional additive, not a therapeutic method, and satisfied the tests of novelty and inventive step.

- **Taiho Pharma's Anti-Cancer Patent Rejection Overturned**

The Delhi High Court overturned the Patent Office's rejection of Taiho Pharmaceutical's patent for an anti-cancer drug, ruling that the office failed to identify the required "known substance" under Section 3(d). The Court remanded the matter for fresh consideration, highlighting the importance of reasoned decisions.

- **“One for All” Trademark Refused – Oswaal Books**

The Delhi High Court dismissed an appeal by Oswaal Books, upholding the Trademark Registrar's decision that “One for All” lacked inherent or acquired distinctiveness and was thus not registrable. The ruling emphasizes that generic phrases cannot be exclusively claimed unless strongly linked to a brand.

National News:

- **Trademark Amendment – Mere Letter Orientation Not Material Change**

In a composite dispute involving both infringement and validity, the Delhi High Court held Jain Irrigation liable for infringing Dura-Line's patent, while rejecting Dura-Line's claim of design infringement, noting that separate standards govern patent and design protection under Indian IP law. The Court also dismissed Jain Irrigation's counterclaim challenging the patent's validity, ruling that the patent was novel, non-obvious, and sufficiently disclosed, and therefore enforceable.

- **Dunlop Trademark Dispute – Registrar's Orders Scrapped**

The Calcutta High Court quashed eight Registrar orders that had allowed Glorious Investment Ltd. to register the DUNLOP mark. The Court found the orders to be unreasoned, procedurally flawed, and in violation of natural justice, thereby restoring the opposition filed by Dunlop International Ltd. This judgment reinforces the need for fair hearing and reasoned orders in trademark registration proceedings.

International News:

- **Amazon to Face Audiobook Monopoly Lawsuit**

A U.S. federal judge has ruled that Amazon must face a lawsuit by independent authors alleging that the company monopolized the audiobook retail market. The authors claim that Amazon's control over distribution channels forces them to overpay for audiobook distribution, potentially violating U.S. antitrust and IP competition norms by stifling market access and pricing fairness.

- **Asus vs Lenovo – US Import Ban Rejected**

In a patent dispute, Lenovo attempted to block imports of Asus' Zenbook laptops into the U.S., alleging infringement. The court sided with Asus, rejecting the import ban, signaling a lack of substantial patent infringement or irreparable harm. This reflects the high threshold for injunctive relief in ITC (International Trade Commission)-related IP enforcement actions.

- **FDA Removal of Ozempic, Wegovy from Drug Shortage List Upheld**

A federal judge upheld FDA's decision to remove the active ingredients of Ozempic and Wegovy from the drug shortage list, thereby preventing compounding pharmacies from producing generic versions. This decision reinforces patent and exclusivity protections granted to pharmaceutical companies and limits exceptions based on shortage status under U.S. drug law.

International News:

- **Disney & Universal Sue Midjourney (USA)**

Major lawsuit in California over unauthorized use of iconic characters in AI model training—first of its kind in Hollywood. On June 11, 2025, Disney and Universal jointly filed a copyright infringement lawsuit against Midjourney in the U.S. District Court (Central District of California). They allege that Midjourney used iconic characters like Darth Vader, Elsa, Shrek, Minions, and Homer Simpson to train its AI image-generation models without authorization. This marks the first major lawsuit by Hollywood studios targeting a generative AI company and could significantly shape legal standards for AI use in creative industries.

- **Getty Images vs Stability AI (UK)**

Getty alleges Stability AI scraped millions of copyrighted images for model training; ongoing UK High Court trial could redefine AI copyright boundaries. Getty Images has initiated a landmark copyright lawsuit in the UK High Court against Stability AI, claiming the company scraped millions of its copyrighted images, including watermarked content, to train its Stable Diffusion model without permission. Getty argues that AI training requires proper licensing and that fair use doesn't apply in this context. Stability AI disputes the claims, stating training occurred outside UK jurisdiction. The trial is ongoing and could set a crucial precedent for copyright and data scraping in AI development.

Government in Promoting IPR:

- **Draft Copyright (Amendment) Rules, 2025 – DPIIT**

- Introduces Rule 83A mandating exclusive digital payment systems for licensing literary, musical, and sound works.
- Aim: Promote transparency, traceability, and digitization of copyright transactions.
- Stakeholders can submit comments by July 4, 2025.

- **CCPA Advisory on Dark Patterns**

Though not purely IPR, this advisory strengthens digital consumer rights and deters deceptive interface design that could infringe user autonomy—closely tied to digital content platforms and IP-based commerce. The CCPA has directed all e-commerce platforms to self-audit within 3 months to identify and remove deceptive design practices or “dark patterns.” While not directly IPR-related, the advisory supports consumer protection in digital content platforms and helps ensure fairer IP-based online commerce.

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