

## MONTHLY INTELLECTUAL PROPERTY RIGHTS NEWSLETTER MAY 2024

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter outlines various developments and significant legal and cultural milestones that highlights the importance of preserving and protecting Intellectual Property rights.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at [mail@lexport.in](mailto:mail@lexport.in).

Regards,  
Team Lexport



### ABOUT US

Lexport is a full-service Indian law firm offering consulting, litigation and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website [www.lexport.in](http://www.lexport.in).

### OUR INTELLECTUAL PROPERTY RIGHTS TEAM

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### PART A: COURT RULINGS

#### **Issue 1: The Scope of “First Sale” Doctrine in a trademark infringement suit**

**Ruling:** The Hon’ble Delhi High Court held that if a seller alters the packing of genuine product, such as changing the expiry date, which can be highly misleading to the consumers and have repercussions over their health, such actions can be seen as creating a “materially different” product, which can fall outside the protection of the first sale doctrine. The Hon’ble Court held that the Defendant’s claim of unknowingly purchasing infringing goods doesn’t absolve them of liability. They must prove the legitimacy of their sources and demonstrate due diligence to mitigate their liability. Altering the label to change the expiry date has the potential of damaging the Plaintiff’s brand reputation, while also deceiving consumers and endangering public health. The Hon’ble Delhi High Court accordingly passed an order for permanent injunction.

*The Hershey Company vs Atul Jalan trading as Akshat Online, CS(COMM) 780/2023*

**Comments:** *Considering the potential damage to the Plaintiff’s brand reputation and impact on consumer safety, the injunction was necessary to prevent further misuse of the Plaintiff’s trademark, brand reputation and to safeguard public interest.*

#### **Issue 2: Unauthorized counterfeiting and sale of copyrighted fashion designs and trademarks by the Defendant.**

**Ruling:** The Hon’ble Delhi High Court, observed that the Defendant’s garments are identical to the designs belonging to the plaintiff who is a renowned fashion designer and is known for creating unique sculpted boning and 3-dimensional designs, constituting copyright and trademark infringement. An ex-parte ad-interim injunction is granted, restraining the Defendant from manufacturing, reproducing, selling, or advertising counterfeit garments resembling Plaintiffs designs. The Defendant is also prohibited from using the Plaintiffs trademark and name “Gaurav Gupta” for promotions or on social media platforms. Defendant must remove all content infringing on the Plaintiffs’ rights from social media platforms. Notice is to be issued to the Defendant, and a Local Commissioner is appointed.

*M/S Reflect Sculpt Private Ltd. & Anr vs Abdus Salam Khan, CS(COMM) 278/2024*

**Comments:** *This ruling serves not only to safeguard the Plaintiffs’ creative efforts and commercial interests but also to establish a precedent for future cases involving similar infringements in the fashion industry.*

#### **Issue 3: Whether renunciation of worldly life by an individual results in renunciation of their statutory rights.**

**Ruling:** The Hon’ble Delhi High Court, decreed that there is no legal prohibition preventing a renunciate from holding property rights, including intellectual property. The Hon’ble court held that Srila Prabhupada’s assignment of copyright to the plaintiffs *Bhaktivedanta Book Trust India* was valid and compliant with the Copyright Act. The Hon’ble Delhi High Court emphasised that renunciation does not automatically extinguish property rights since specific legal procedures for relinquishment were not followed in this case. Since both parties were extensively heard, and the defendant accepted the injunction, the Court found no other aspect remaining for adjudication. Therefore, the suit was decreed in favour of the plaintiff Trust, granting the relief sought in the prayer of the plaintiff.

***The Bhaktivedanta Book Trust India vs www.Friendwithbooks.co, CS(COMM) 88/2021***

**Comments:** *This decision reaffirms that renunciation does not nullify intellectual property rights. It validates the Trust's ownership of Srila Prabhupada's works and the Court's ruling serves as a crucial precedent in clarifying the rights of spiritual organizations and charitable trusts in safeguarding the intellectual property associated with their founders and leaders.*

**PART B: ARTICLES**

**1. The Evolution of ISKCON: From Spiritual Movement to Well-Known Trademark**

In this article, Our Partner Ms. Rajlatha Kotni and Associate Ms. Swagita Pandey, have provided an analysis on transformation of the International Society for Krishna Consciousness (ISKCON) from a spiritual movement into a well-known trademark, highlighting the intersection of spirituality and intellectual property.

Click on the below link to read the article:

<https://shorturl.at/pHQ9J>

**2. INTA Files Intervention on Interpretation of "Article" Under India's Design Act, 2000**

Click on the below link to read the article:

<https://www.inta.org/news-and-press/press-releases/inta-files-intervention-on-interpretation-of-article-under-indias-designs-act-2000/>

**END OF THE NEWSLETTER**

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