

MONTHLY INTELLECTUAL PROPERTY RIGHTS NEWSLETTER

JUNE 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.

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.

OUR INTELLECTUAL PROPERTY RIGHTS TEAM

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PART A: COURT RULINGS

Issue 1: The Scope of Application of “Initial Interest Confusion” Doctrine in a Trademark suit.

Ruling: In an appeal against the ruling of a Single Judge of the Hon’ble Delhi High Court, the Division Bench held that the Single judge had misinterpreted the “initial interest confusion” doctrine. According to the single judge, there shall be continued confusion amongst customers over a length of time. In other words, any confusion needs to continue until the transaction concludes. The Division bench accepted the appellant’s contention and held that the learned Single Judge had erred in its interpretation of the doctrine of ‘initial interest confusion’ to entail persistence of confusion till a stage that the transaction is consummated. The doctrine of ‘initial interest confusion’ entails that there is confusion only at the initial stage and there is no confusion when the transaction for sale and purchase is completed. The Hon’ble Delhi High Court has admitted the appeal and the matter has been adjourned to a future date.

Mountain Valley Springs India Private Limited v. Baby Forest Ayurveda Private Limited & Ors.,FAO(OS) (COMM) 111/2024

Comments: *Even if the initial confusion is temporary, it has the potential to adversely impact the brand’s goodwill and consumer perception.*

Issue 2: Whether the similarity of the name, particularly when it is a mythological character used in various existing works, movies, and books, can be the sole criterion for determining copyright infringement?

Ruling: The Hon’ble Delhi High Court reiterated that there is no copyright protection for ideas, themes, or concepts. Only the expression of an idea can be protected. It held that the character "Yakshini" is mythological and has been part of various cultural and religious texts. The court noted that the character itself is not exclusive to the plaintiff's series. It further held that pre-publication injunctions cannot be granted without concrete evidence of infringement, especially when the work is based on elements in the public domain like mythology. The court was critical of the plaintiff's timing, noting that despite public

announcements of the series' release, the plaintiff waited until the “eleventh hour” to file the suit. The court found that the plaintiff's delay in seeking relief undermined their request for an urgent injunction. While there were thematic similarities, the court required more concrete evidence that the defendants' series copied the plaintiff's specific expression rather than just the general idea. The court denied the plaintiff's request for an ad-interim injunction, concluding that the plaintiff failed to demonstrate a prima facie case of copyright infringement and that the balance of convenience did not favor granting the injunction. The character "Yakshini" being part of the public domain, and the absence of clear evidence of infringement were pivotal to the decision.

Pocket FM Pvt Ltd vs. Novi Digital Entertainment Pvt Ltd & Ors, 2024 SCC OnLine Del 4382

Comments: *This ruling serves to highlight the balance courts must maintain between protecting intellectual property and allowing creative expressions based on common cultural heritage.*

Issue 3: The recurring threat posed by rogue websites engaging in the piracy of copyrighted content in light of the upcoming ICC events.

Ruling: The Hon'ble High Court of Delhi recognized that Star India Private Limited had exclusive digital and television rights for the ICC events. The Court held that the ICC Men's T20 World Cup has substantial viewership and commercial value, particularly in India, and thus, rogue websites pose a continuous threat by illegally broadcasting copyrighted content, undermining the plaintiff's investment and copyright protections. The Court granted a dynamic injunction in favour of Star India Private Limited. The defendants, including the rogue websites and service providers, were restrained from hosting, streaming, or disseminating any part of the ICC events without authorization.

Star India (P) Ltd. v. Magicwin. Games, 2024 SCC OnLine Del 4386

Comments: *This decision underscores the judiciary's recognition of the evolving challenges posed by digital piracy in the context of valuable broadcast rights. By granting this injunction, the Court has set a significant precedent in the fight against online piracy, ensuring that legal protections keep pace with technological advancements*

PART B: RECENT NEWS

1. Delhi HC halts use of Domino's trademark by Punjab-based food chain Donito's.

Click on the below link to read the article:

<https://retail.economicstimes.indiatimes.com/news/food-entertainment/food-services/delhi-hc-halts-use-of-dominos-trademark-by-punjab-based-food-chain-donitos/110769357#:~:text=New%20Delhi%3A%20The%20Delhi%20High,Domino's%20Pizza%20group%20of%20companies.>

2. Delhi High Court restrains use of 'Baap Ki Adalat', protects Rajat Sharma's personality rights.

Click on the below link to read the article:

<https://indianexpress.com/article/cities/delhi/delhi-high-court-rajat-sharma-personality-rights-baap-ki-adalat-9383971/>

PART C: ARTICLES

1. Comparative Ads: Balancing Integrity And Impact

In this article, our Partner Ms. Rajlatha Kotni, Associate Ms. Swagita Pandey, and Associate Ms. Ananya Singh provide an analysis on how comparative ads highlight brand superiority but must be factual, avoid misleading claims and not disparage competitors to maintain integrity.

Click on the below link to read the article:

<https://shorturl.at/eUnGl>

END OF THE NEWSLETTER
