

MONTHLY INTELLECTUAL PROPERTY RIGHTS NEWSLETTER OCTOBER 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.

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PART A: COURT RULINGS

Issue 1: Delhi High Court Restrains Super Cassettes from Using “Tu Hi Aashiqui” Title in Ongoing Trademark Dispute

Ruling: In the case *Vishesh Films Pvt. Ltd. v. Super Cassettes Industries Ltd.*, the Delhi High Court issued an interim injunction preventing Super Cassettes from using the film title “*Tu Hi Aashiqui*”/ “*Tu Hi Aashiqui Hai*”. The court ruled in favor of Vishesh Films, who claimed rights over the “*Aashiqui*” mark, stating that the title is strongly associated with its popular film franchise. The dispute arose after both parties, who had previously co-produced films in the *Aashiqui* series, announced the third installment, *Aashiqui 3*. However, Super Cassettes applied to register the title “*Tu Hi Aashiqui*” in December 2023, leading Vishesh Films to file a case, arguing that the Defendant could not use the name without their consent. The court found that the titles “*Aashiqui*” and “*Tu Hi Aashiqui*” were deceptively similar, especially given the prior collaboration between the parties.

Super Cassettes argued that “*Aashiqui*” is a generic term, widely used in film titles, but the court disagreed. It ruled that “*Aashiqui*” has acquired significant public recognition and goodwill, and thus functions as a trademark for the Plaintiff’s films. The Division Bench also dismissed an appeal from Super Cassettes, upholding the injunction.

Vishesh Films Pvt. Ltd. v. Super Cassettes Industries Ltd., CS(COMM) 68/2024

Lexport Comments: *This case highlights the significance of trademark protection in the film industry. The Delhi High Court’s interim injunction against Super Cassettes using the title “Tu Hi Aashiqui” reinforces that titles can acquire distinctiveness and goodwill, thus functioning as trademarks. This ruling serves as a reminder for production companies to clarify rights over titles in collaborative ventures to avoid disputes and protect their brand identity.*

Issue 2: Hon’ble Delhi High Court grants Interim Injunction Against Defendants for Trademark Infringement of mark “HEALTH OK”

Ruling: The Plaintiff, proprietor of the “*HEALTH OK*” trademark, approached the Hon’ble court because the defendants were selling products under the similar mark “*ALL OK+*”, with confusingly similar trade dress and colour scheme. The Plaintiff stated that they have made substantial investments in brand

promotion, and also presented evidence of sales and goodwill of their products under the trademark “HEALTH OK”. The Hon’ble Court found a *prima facie* case of infringement and granted an interim injunction and restrained the Defendant from using the trademark “ALL OK+” and trade dress and any other trademark or tradress which is same or identical with or confusingly/ deceptively similar to the Plaintiff’s trademarks. Further the Hon’ble Court appointed Local Commissioners to inspect the defendant’s premises.

Mankind Pharma Limited vs Pranjali Swapnil Pimprikar, CS(COMM) 709/2024

Lexport Comments: *The Court’s decision in the “HEALTH OK” trademark case effectively highlights the importance of protecting established brands from infringement. By granting an interim injunction against “ALL OK+”, the ruling recognizes the potential for consumer confusion and affirms the substantial investments made by the plaintiff in their trademark.*

Issue 3: Hon’ble Delhi High Court grants Ad-Interim Injunction Against “AFC” for Trademark Infringement of “KFC”

Ruling: The Plaintiff sought a permanent injunction against the defendants for using the trademark “AFC” (American Fried Chicken), claiming it was deceptively similar to KFC’s a well-known trademark in both appearance and concept. The Plaintiff provided evidence of its trademark registrations, marketing efforts, and distinctive red-and-white trade dress; the plaintiff argued that AFC has on purpose adopted the said trademark to capitalize on KFC’s goodwill. The Hon’ble Court found a *prima facie* case of infringement and issued an ad-interim injunction, restraining the defendants from using the impugned mark or any similar variants.

Kentucky Fried Chicken International vs Muhammad Ali. M And Ors, CS(COMM) 718/2024

Lexport Comments: *The court’s decision to grant an interim injunction against the use of the “AFC” trademark effectively protects the goodwill associated with the well-known “KFC” brand. By acknowledging the potential for consumer confusion, the ruling reinforces the importance of safeguarding distinctive trademarks.*

PART B: ARTICLES AND NEWS

1. USPTO Terminates 3,100 Patent Applications Over Fraudulent Signatures

The U.S. Patent and Trademark Office (USPTO) terminated around 3,100 patent applications due to fraudulent “S-signatures” used to deceive the Office. The case involved practitioner Jie Yang, whose signature was used on thousands of documents without her knowledge. The fraudulent filings were linked to Dr. Yu “Mark” Wang and his firm, Wayne & King IP. Wang, who is not a registered practitioner, allegedly orchestrated the scheme. The USPTO issued an order reprimanding Yang, while Wang failed to respond to sanctions. USPTO Director Kathi Vidal emphasized the importance of working with licensed practitioners and safeguarding credentials to prevent fraud

2. Article: Stitching together Innovation: The Art of IP in Fashion

In this article, our Partner, Ms. Rajlatha Kotni, along with Associate Ms. Swagita Pandey and Intern Sejal Raghuwanshi, discusses India's legislative framework—including the Trademark Act, Copyright Act, and Design Act—which provides essential protection for the fashion industry. Despite these legal provisions, designers encounter significant challenges in a fast-paced and highly competitive environment. Key issues persist, such as rampant counterfeiting and a limited awareness of intellectual property rights within the industry. This article aims to shed light on these challenges and explore potential solutions for better safeguarding designers' innovations and creations.

Click on the link to read the article: [Stitching together Innovation: The Art of IP in Fashion](#)

3. Article : The Madrid System: A Comprehensive Solution for Global Trademark Registration

In this blog, our Partner, Ms. Rajlatha Kotni, and Associate Ms. Swagita Pandey discuss the Madrid Protocol, which serves as one of the most convenient and efficient mechanisms for trademark owners worldwide to file a single application for trademark registration. This streamlined process not only simplifies the application procedure but also enhances the ability to protect brands in multiple jurisdictions. Through this discussion, they highlight the benefits of the Madrid Protocol for businesses looking to expand their trademark rights globally while navigating the complexities of international trademark law.

Click on the link to read the article: <https://shorturl.at/OZbcF>

END OF THE NEWSLETTER
