

## MONTHLY INTELLECTUAL PROPERTY RIGHTS NEWSLETTER

### NOVEMBER 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: Bombay High Court Recognizes "Girnar" as a Well-Known Trademark Under Trademarks Act**

**Ruling:** The Bombay High Court has recognized the “Girnar” trademark, a popular tea brand, as a ‘well-known mark’ in India under the Trademarks Act in the case of Girnar Food & Beverages Pvt. Ltd v. TNI Plastics. Justice RI Chagla stating that Girnar has surpassed its original goods and is now associated with a wide range of products. Girnar Food & Beverages sought protection against TNI Plastics for trademark infringement, arguing that the use of the trademark could confuse consumers and damage its reputation. The Court previously granted interim relief to Girnar in August 2024. Advocate Hiren Kamod, representing Girnar, highlighted the brand’s extensive history since 1928 and its diverse product range. The Court confirmed that Girnar meets the criteria for a well-known trademark, including public recognition and extensive promotional activities, reporting sales of approximately ₹48,777 lakhs in the fiscal year 2022-23. The ruling ensures enhanced protection against similar trademarks and facilitates Girnar’s global expansion. Advocates Hiren Kamod, Anees Patel, and Blossom Noronha represented Girnar, while Advocates Mitesh Parmar and Shweta Kansara appeared for TNI Plastics.

*Girnar Food & Beverages Pvt. Ltd. v. TNI Plastics, COMIPL 26309/2024*

**Lexport Comments:** *The Bombay High Court’s recognition of Girnar as a “well-known mark” is a significant development in India’s trademark landscape. By affirming Girnar’s extensive market presence and public recognition, the Court has strengthened legal protections for brands with widespread reputations. This ruling not only prevents misuse of the Girnar trademark but also enhances its brand value, supporting its ambitions for expansion in India and globally.*

### **Issue 2: Hon’ble Delhi District Court Awards Damages in Trademark Infringement Case Against Seller of Counterfeit Lakme Products**

**Ruling:** The Plaintiff accused the Defendant of selling counterfeit goods under the Lakme trademark, infringing its registered trademark, trade dress, and the copyright of Lakme and Fair and Lovely. The Hon’ble Court, upon reviewing the seized counterfeit products, found clear evidence of infringement. As the Defendant failed to present a defence and remained absent throughout the proceedings, the Hon’ble Court granted a summary judgment in favor of the Plaintiff.

*Hindustan Unilever Ltd vs Pramod Gupta Andors, CS (Comm.) No.315/2019*

**Lexport Comments:** *The Court’s summary judgment in favor of Lakme underscores the judiciary’s firm stance against counterfeit goods and trademark infringement. By upholding Lakme’s trademark, trade dress, and copyright rights, the ruling reinforces legal protections for brand identity and deters misuse of established trademarks. This case highlights the importance of swift legal recourse and strong enforcement measures to combat counterfeiting and safeguard consumers from deceptive practices.*

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### **Issue 3: Hon'ble Delhi District Court Denies Injunction in Trademark Infringement Case Due to Lack of Territorial Jurisdiction and Insufficient Evidence**

**Ruling:** The plaintiff sought an injunction against the defendants, alleging that their "DIAMOND GOLD" mark was deceptively similar to the plaintiff's "DIAMOND" mark. The plaintiff claimed the Court had territorial jurisdiction because the defendants promoted their products via Facebook, WhatsApp, and YouTube, and had agreed through WhatsApp to deliver products within the jurisdiction. However, the Hon'ble Court held that the websites used by the defendants (Facebook, WhatsApp, YouTube, and Gmail) were not interactive and did not allow for concluded sales, making them insufficient to establish jurisdiction. Additionally, the plaintiff failed to provide evidence of trademark assignment, as no assignment deeds were submitted or proven in court. The Hon'ble Court also noted that the plaintiff's witness was not competent to testify on critical facts known only to the plaintiff. As a result, the Hon'ble Court denied the injunction, stating that the plaintiff could not substantiate its territorial claims or infringement allegations.

*Diamond Modular Pvt. Ltd vs Vikash Kumar, CS (COMM) 444/23*

*Lexport Comments: The Court's decision to deny the injunction in the Diamond trademark case emphasizes the importance of concrete jurisdictional claims and robust evidence in trademark disputes. By ruling that social media promotion alone does not establish territorial jurisdiction, the judgment clarifies standards for proving territorial reach in online commerce cases. The decision also underscores the need for plaintiffs to provide clear documentation of trademark rights and qualified witnesses to effectively substantiate claims in court.*

### **PART B: ARTICLES AND NEWS**

#### **1. Alcon Entertainment Sues Tesla and Elon Musk Over Copyright Infringement**

Los Angeles-based film production company Alcon Entertainment has filed a lawsuit in the Central District of California against Tesla, its CEO Elon Musk, and Warner Bros. Discovery, alleging copyright infringement and false endorsement. The lawsuit claims that these parties are responsible for creating an AI-generated image of Tesla's Cybercab, which incorporates iconic visuals from Alcon's 2017 film Blade Runner 2049. Alcon asserts that the image was showcased during a presentation by Musk at a recent Cybercab launch event held at Warner Bros. Burbank studios, despite Alcon's refusal to license any film photography for the event.

#### **2. Article: Balancing Innovation And Fair Competition: The Role Of Competition Law In Intellectual Property Rights**

In this article, our Partner, Ms. Rajlatha Kotni, along with Associate Ms. Swagita Pandey and Intern Gnanith Hunsur, explores the complex relationship between intellectual property (IP) rights and competition law. It delves into how competition law is essential to ensuring that IP rights, which grant exclusivity to inventors and creators, do not hinder fair competition or market accessibility.

Click on the below link to read the article: <https://shorturl.at/K2MD2>

**END OF THE NEWSLETTER**

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