

MONTHLY INTELLECTUAL PROPERTY RIGHTS NEWSLETTER

DECEMBER 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: Hon'ble Delhi High Court Grants Interim Relief to Protect Eminent Cardiac Surgeon Dr. Devi Shetty's Personality Rights

Ruling: The Delhi High Court granted a temporary injunction to protect the personality rights of Dr. Devi Prasad Shetty and to restrain the defendants from misusing his name, likeness, photos, videos, or other aspects of his persona without consent, including through AI or deepfake technology. Justice Mini Pushkarna also prohibited the infringement of Narayana Hrudayalaya's trademarks, "Narayana Health" and "Narayana Hrudayalaya", which the plaintiffs argued were widely recognized and closely associated with their institution. The plaintiffs contended that the defendants had misappropriated Dr. Shetty's persona and the hospital's trademarks by creating misleading social media content, including unverified health tips and promotions for health products, falsely implying endorsement or association. They further argued that such misuse tarnished Dr. Shetty's reputation, damaged the goodwill of Narayana Hrudayalaya, and misled the public. Highlighting Dr. Shetty's contributions to affordable healthcare and his global reputation as a "celebrity" in the field, the plaintiffs established a prima facie case for injunction, emphasizing irreparable harm and a balance of convenience in their favour. The Court directed Meta and Google to block the misleading content and disclose the defendants' details, ensuring protection of the plaintiffs' personality and intellectual property rights while preventing further harm.

Dr Devi Prasad Shetty & Anr. vs. Medicine Me & Ors, CS (Comm) No. 1053/2024

Lexport Comments: The Delhi High Court's ruling strengthens the protection of both personality rights and intellectual property in the digital era. By granting an injunction to prevent the unauthorized use of Dr. Devi Prasad Shetty's persona, including through AI and deepfake technology, the Court reinforces the importance of safeguarding personal identities under IP law. Additionally, the decision protects Narayana Hrudayalaya's registered trademarks from misuse, emphasizing the need to preserve the goodwill of well-established brands. This case sets a vital precedent for addressing challenges in IP law, particularly in the context of digital misrepresentation and unauthorized commercial exploitation.

Issue 2: Hon'ble Bombay High Court Grants Relief to Metro Footwear's in Trademark dispute with Nice shoes over 'MOCHI'

Ruling: The Bombay High Court issued a temporary injunction in favour of Metro Brands Limited in a trademark dispute with Nice Shoes LLP over the use of the 'MOCHI' mark. Metro, which has used the

'MOCHI' mark since 1977, filed a lawsuit after discovering the defendant's website 'desimochi.com', selling footwear under the 'DESIMOCHI' mark. Despite a previous dismissal of Metro's complaint by the WIPO Arbitration and Mediation Centre, the Court found Metro's claim of trademark infringement and passing off to be strong, as the 'DESIMOCHI' mark was confusingly similar to Metro's well-known 'MOCHI' trademark. The Court ruled that the use of 'DESIMOCHI' created an association with Metro's brand, likely misleading the public into thinking the products were linked to Metro. The Court also noted that Metro's mark had been in extensive use since 1977, making it a 'well-known mark'. The ruling granted Metro a temporary injunction, restraining the defendants from using 'MOCHI' or any similar mark, and ordered them to transfer the 'desimochi.com' domain to Metro.

Metro Brands Ltd. vs. Nice Shoes LLP & Ors, IA (L) NO.14867 OF 2024

***Lexport Comments:** The Bombay High Court's ruling in favour of Metro Brands Limited emphasizes the importance of protecting well-established trademarks from infringement, even when a defendant uses a seemingly distinct prefix like 'DESI'. The decision highlights the Court's commitment to preventing consumer confusion and reinforces the value of intellectual property in the digital space. By declaring 'MOCHI' a well-known mark, the ruling sets a strong precedent for safeguarding brand identity and ensuring fair use of trademarks online.*

Issue 3: Hon'ble Bombay High Court Grants Temporary Injunction Against Youtuber Gaurav Taneja for Copyright Infringement in Castrol's Campaign

Ruling: The Bombay High Court granted a temporary injunction against Gaurav Taneja, restraining him from infringing Castrol India's copyright over the Raw Data and Collab Content from its "Castronomy" campaign. The Court held that Castrol is the prima facie owner of the copyright and that Taneja unauthorizedly exploited the content without promoting the campaign. It directed Taneja to delete the impugned videos from his social media channels and ruled that Castrol would suffer irreparable harm without such relief.

Castrol India Ltd. vs. Gaurav Taneja & Anr. (Interim Application (L) No.35454 of 2024 in COMM IPR Suit (L) No.35287 of 2024)

***Lexport Comments:** The Bombay High Court's ruling in Castrol India Ltd. vs. Gaurav Taneja highlights the importance of respecting intellectual property in brand-influencer collaborations. It emphasizes that content created under a brand's direction is protected by copyright, and unauthorized use can lead to legal action. This case underscores the need for clear agreements and accountability to ensure smooth partnerships and compliance with copyright laws in the digital age.*

Issue 4: Hon'ble Delhi High Court Grants Temporary Injunction in Favour of Moti Mahal Against Ex-Franchisee for Trademark and Copyright Infringement

Ruling: The Delhi High Court issued a temporary injunction in favour of Moti Mahal Delux Management Services Pvt. Ltd., restraining its ex-franchisee, M/S. Srmj Business Promoters Pvt. Ltd., from using its trademarks and copyrights. The court found that the defendant continued using Moti Mahal's marks, including

"MOTI MAHAL DELUX TANDOORI TRAIL," despite the termination of their Franchise Agreement. The court ordered the defendant to remove the infringing marks from its premises, social media, and third-party websites, citing a likelihood of consumer confusion and irreparable harm to Moti Mahal's reputation.

Moti Mahal Delux Management Services Pvt. Ltd. & ors. vs. M/S. Srmj Business Promoters Pvt. Ltd. & anr, CS(COMM)1115/2024

Lexport Comments: The Delhi High Court's ruling in favour of Moti Mahal Delux emphasizes the importance of protecting trademarks and copyrights after a franchise agreement ends. The court's decision to issue a temporary injunction sends a clear message that unauthorized use of registered trademarks, which can lead to consumer confusion and harm to a brand's reputation, will not be tolerated. This case highlights the need for both franchisors and franchisees to respect intellectual property rights and the terms of their agreements.

PART B: ARTICLES AND NEWS

1. ANI Files Lawsuit Against OpenAI Over Unauthorized Use of Content in AI Training

New Delhi-based news agency Asian News International (ANI) has filed a lawsuit in the Delhi High Court against OpenAI, accusing the AI company of using its copyrighted content without permission to train ChatGPT. ANI claims its works are "permanently stored" in ChatGPT's memory and alleges fabricated news stories were falsely attributed to the agency. OpenAI, which states it uses publicly available data under fair use principles, argues it stopped using ANI's content in September 2023 and blocked its website from future AI training. ANI also raised concerns about unfair competition, highlighting OpenAI's commercial partnerships with other news organizations. The court has issued a notice to OpenAI to respond to ANI's accusations.

2. Hon'ble Delhi High Court observes that Wow Momo Cannot Claim Monopoly Over the word "Wow"

The Delhi High Court Refused to issue an interim order to block Hong Kong-based Wow Burger from entering India, following a plea by Wow! Momo. Justice Amit Bansal observed that the word "Wow" is generic and cannot be monopolized in the restaurant industry. Wow! Momo argued that its use of "Wow Burger" for its burgers could lead to consumer confusion. The court, however, expressed concern about restricting a multinational chain from using its trade name and scheduled the case for further hearing in January.

3. Delhi High Court Refers MSF's Trademark Suit Against Dharma Productions to Mediation

The Delhi High Court has referred a trademark dispute filed by Médecins Sans Frontières (MSF)/Doctors Without Borders against Dharma Productions to mediation. MSF objected to a scene in the Alia Bhatt-starrer Jigra that depicts characters using the MSF trademark to impersonate its members for illegally crossing international borders. The organization filed the suit alleging trademark misuse and misrepresentation.

4. Article: Brand and Trademark Disparagement: Insights from The Ongoing 'Foodpharmer' vs. 'Mondelez' Case

In this article, our Partner, Ms. Rajlatha Kotni, along with Associate Ms. Swagita Pandey and Intern Isha Arora, explores the Brand and trademark disparagement is a critical issue in the modern business landscape, especially as companies fiercely compete to establish their market dominance.

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

END OF THE NEWSLETTER
