

MONTHLY INTELLECTUAL PROPERTY RIGHTS NEWSLETTER

FEBRUARY 2025

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 Use of “JV Evergreen Sweets & Treats” Mark in Trademark Dispute

Ruling: In a recent trademark dispute, Evergreen Sweet House filed suit against JV Evergreen Sweets & Treats and others, alleging trademark infringement and passing off. On December 23, 2024, the Delhi High Court granted an injunction restraining the defendants from using the “*JV Evergreen Sweets & Treats*” mark or any mark identical to “*Evergreen*” to prevent consumer confusion. The Court noted that Evergreen Sweet House, which has been using the “*Evergreen*” mark for selling sweets and namkeens since 1963, had built substantial goodwill. The Court held that the defendants’ adoption of the disputed mark amounted to misrepresentation by copying the distinctive “*Evergreen*” element, thereby creating a likelihood of damage and consumer confusion. Additionally, recognizing the growing influence of online platforms, the Court directed intermediaries like Zomato, Swiggy, and Meta to delist or block the infringing marks in accordance with the *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*.

Evergreen Sweet House vs Jv Evergreen Sweets And Treats & Ors., 2024 SCC OnLine Del 9005.

Lexport Comment- *The Delhi High Court's decision in favor of Evergreen Sweet House is a commendable step in upholding trademark rights and protecting long-standing brand goodwill. By recognizing the importance of distinctiveness and consumer trust, the Court has reinforced the principles of fair competition.*

Issue 2: Delhi High Court holds that producer’s rights trump those of music composers.

Ruling: The central issue in this case is the ownership of copyright in the song *En Iniya Pon Nilave*, composed by Ilaiyaraaja for the 1980 Tamil film *Moodu Pani*. The dispute arose when Vels Film International recreated the song for its film *Agathiyaa*, relying on rights assigned by Ilaiyaraaja. However, Saregama India, which had acquired the rights to the original film’s sound recordings, claimed exclusive ownership over the song and alleged copyright infringement. The Delhi High Court ruled in favor of Saregama India, holding that Ilaiyaraaja does not have the copyright to *En Iniya Pon Nilave* and, therefore, could not have assigned its rights to Vels Film International. The Court based its decision on *Section 17* of the Copyright Act, 1957 (pre-2012 version), which recognized the producer of a cinematographic film as the first owner of the musical works created for it. This interpretation was consistent with the 1977 Supreme Court decision in *Indian Performing Rights Society v Eastern India Motion Pictures Association (EIMPA)*, which granted overriding rights to producers over music composers. However, recognizing Vels’ significant financial investment in recreating the sound recording, the Court allowed its use, provided that Vels deposited ₹30 lakhs as a license fee.

Saregama India Ltd. v. Vels Films International Ltd. & Ors., CS(COMM) 38/2025 & I.A. 1021/2025, I.A. 2163/2025.

Lexport Comments- *The ruling highlights the persistent challenges faced by music composers in asserting control over their creations, especially in cases governed by the pre-2012 legal framework. The continued reliance on EIMPA highlights the need for clearer legislative and judicial intervention to strengthen composers' ability to license and monetize their works independently.*

Issue 3: Calcutta High Court Upholds Trademark Proprietor's Right to Lead Infringement Suit in Kirloskar Dispute

Ruling: The case primarily concerned the transposition of Kirloskar Proprietary Limited (KPL) from being a defendant (Defendant No. 5) to a plaintiff in a trademark infringement suit originally filed by Kirloskar Brothers Ltd. (KBL). The suit aimed to protect the four registered trademarks of "Kirloskar" from alleged third-party infringement. The key legal question was whether KPL, as the registered proprietor of the trademarks, should be transposed as the plaintiff to take charge of the litigation. The Calcutta High Court ruled in favor of transposing Kirloskar Proprietary Limited (KPL) from a defendant to a plaintiff, recognizing its superior ownership rights over the "Kirloskar" trademarks. The Court noted that the primary objective of the suit was to protect the mark from third-party infringers, and since KPL was the registered proprietor, it had the most direct legal interest in leading the case. The Court rejected KBL's argument that transposition was not legally permissible, citing *Order 1 Rule 10 of the Code of Civil Procedure (CPC)*, which allows courts to alter the position of parties to ensure effective adjudication. The Court emphasized that the transposition would neither change the nature of the suit nor prejudice the rights of any party, as both KBL and KPL shared a common objective to protect the trademarks from infringement. Accordingly, KPL was allowed to take charge of the litigation, ensuring that the suit remained focused on trademark enforcement rather than internal disputes between the parties.

Kirloskar Brothers Ltd. v. Mitra Trading, 2025 SCC OnLine Cal 752

Lexport Comments: *This ruling reinforces the principle that the rightful owner of a trademark should lead legal enforcement actions. By prioritizing KPL's standing as the registered proprietor, the Court upheld the importance of clear ownership in trademark litigation. The judgment also highlights the judiciary's discretion in modifying party positions under procedural law, ensuring that cases are prosecuted by the most appropriate party.*

PART B: ARTICLES AND NEWS

1. Macrotech Developers Files Trademark Infringement Suit Against House of Abhinandan Lodha (HoABL)

Macrotech Developers (formerly Lodha Developers) has initiated a trademark infringement suit against House of Abhinandan Lodha (HoABL) by seeking an injunction to stop the use of the trademark "Lodha" and claiming damages of Rs. 5000 crore. The suit arises from a long-standing family dispute that dates back to the Lodha siblings' separation in 2015, formalized through a Family Settlement Agreement (FSA). Abhishek Lodha, CEO of Macrotech, contends that the FSA explicitly granted all brand rights including the trademark "Lodha" to Macrotech Developers and barred Abhinandan from using the name in any form. Conversely, Abhinandan Lodha argues that the FSA did not impose a complete non-compete clause and that any restrictions were limited by time and geography. Recent developments, including HoABL's application to register the trademark in the same classes as Macrotech (classes 36 and 37), have added complexity to the matter. To mediate the dispute, the Bombay High Court has appointed Justice Raveendran, highlighting the urgency and high stakes of the case.

2. Article: Case Analysis: Dhanush V. Nayanthara – Legal Perspectives and Implications

In this article, our Partner, Ms. Rajlatha Kotni, along with Associate Ms. Swagita Pandey and Intern Isha Arora present a case report on the Dhanush v. Nayanthara suit, shedding light on the complexities of copyright law.

Click on the below link to read the article:

<https://shorturl.at/3hJEP>

END OF THE NEWSLETTER
