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LANDMARK RULING BY CALCUTTA HIGH COURT ON PATENT EXAMINATION STANDARDS: [UPL Limited vs. Astec Lifesciences Limited (IPDPTA/2/2024)]



- By Divyendu Verma



- By Sahana Mabian

In a critical decision that underscores the importance of procedural fairness in the Indian patent system, the Calcutta High Court, in *UPL Limited vs. Astec Lifesciences Limited and Anr.* (IPDPTA/2/2024), has set aside a pre-grant opposition order passed by the Controller of Patents, citing serious violations of natural justice and non-application of mind.

Background:

The dispute arose when UPL Limited challenged an order dated March 9, 2024, in which the Controller allowed a pre-grant opposition under Section 25(1) of the Patents Act, 1970, filed by Astec Lifesciences. UPL contended that the impugned order was mechanically drafted, copying verbatim portions of the private respondent's submissions - including typographical errors and even page numbers—without any independent judicial assessment.

Court's Observations

Justice Ravi Krishan Kapur minced no words in condemning the manner in which the impugned order had been passed. Terming it “a travesty of justice,” the Court held that:

“There has been a verbatim reproduction of portions of the Note of Submissions filed by the private respondent...reflecting not only non-application of mind but also a gross infraction of the principles of natural justice.”

Crucially, the Court emphasized that adjudicatory orders—especially those under Sections 14, 15, and 25(1) of the Act—must not be mere cut-and-paste jobs. They must reflect the reasoning behind each conclusion and demonstrate that the adjudicating authority has applied its mind to the issues raised.

Statutory Duties and Procedural Safeguards

The judgment goes on to reiterate the statutory procedures that must be strictly followed in patent examination and opposition:

- **Section 14** requires that the gist of objections from the Examiner's report be clearly communicated to the applicant, allowing them an opportunity to respond.
- **Section 15** empowers the Controller to refuse or demand amendments, but only after procedural fairness is observed.
- **Section 25(1)** lays out grounds for pre-grant opposition. The Court noted that any additional replies or documents filed by the opponent and taken on record must be promptly shared with the applicant to ensure their right to reply.

The Court criticized the growing trend of opaque and unreasoned orders in patent adjudication and urged the Patent Office to ensure that every decision is transparent, well-reasoned, and compliant with the procedural framework.

Timelines and Transparency

Justice Kapur also drew attention to the adverse impact that procedural delays and unjust practices can have on innovators. He highlighted the need for the Patent Office to complete examinations and oppositions within prescribed timelines, stating:

“The incalculable damage caused to any applicant by keeping such applications pending for years nullifies the very objective and purpose of the Act.”

Final Orders

The High Court:

- **Set aside** the impugned order.
- **Remanded the matter** to a different Officer for **expeditious reconsideration within 8 weeks.**
- **Clarified** that it had not adjudicated on the merits, keeping all issues open for fresh consideration.

Implementing the UPL v. ASTEC Judgment at the Indian Patent Office:

The UPL v. Astec ruling underscores the critical need for procedural discipline and reasoned adjudication within India's patent examination system. While the Indian Patent Office has a structured multi-stage process—from FER/SER to hearings—this case reveals a systemic failure: mechanical and unreasoned decisions that compromise fairness.

Key Recommendations for Implementation:

- **Independent Application of Mind:** Patent Controllers must refrain from copy-pasting submissions. Orders under Sections 14, 15, and 25(1) must reflect independent analysis and clearly state the rationale behind decisions—the "why" must match the "what."
- **Clear and Timely Communication:** Every objection (FER/SER) must be specific, understandable, and issued within prescribed timelines. New objections post-hearing or post-FER/SER must be transparently shared.
- **Hearing Integrity:** In all hearings, applicants must get a real opportunity to respond. Mechanical or premature rejections violate natural justice and must be avoided.
- **Comparative Efficiency:** While the USPTO allows extensions and continuations (RCE) and the EPO emphasizes detailed written communication, India must adopt similar practices to mitigate delays and reduce applicant burden due to examination inefficiencies.
- **Time-Bound Adjudication:** The Patent Office must follow strict timelines for examination and opposition, aligning with global standards. Prolonged pendency undercuts the 20-year patent term.

Overview of the Indian Patent Office Examination vis-à-vis USPTO & EPO:

Aspect	Indian Patent	USP TO	EPO
Examination Request Required	Yes (Form 18 / 18A)	Yes	Yes
Timeline for Office Action Response	6 months (FER), extendable by 3 months	3 months (extendable by 3 more)	4 months (extendable in rare cases)
Availability of Continuation Practice	No formal RCE mechanism	Yes (RCE, CIP, CON)	Yes (Divisional applications)
Time to Grant (Avg.)	3-6 years (1-2 with expedited)	1-3 years	3-5 years
Extension Mechanism for Delays	No formal term extension	Yes (35 U.S.C. Â§ 156)	Yes (limited term adjustments)
Quality of Office Action Reasoning	Inconsistent (highlighted in UPL case)	Generally robust and reasoned	Detailed and written reasoning

Broader Implications:

This judgment is a watershed moment for the Indian IP ecosystem. It raises alarm bells about the quality of adjudication at the Patent Office and reinforces the judiciary's role in ensuring that administrative processes uphold the principles of natural justice.

Patent applicants, IP practitioners, and policymakers should take note of the guidance laid down in this case. The decision reaffirms that *due process is not a technicality - it is a cornerstone of a fair and functioning patent system.*

SUMMARY – REPORT ON AI GOVERNANCE GUIDELINES DEVELOPMENT



- By Priyanshi Verma

Introduction

India's vast and diverse socio-economic landscape offers immense potential for AI-driven growth. Recognizing the need for inclusive and responsible development, the Government of India approved the IndiaAI Mission on March 7, 2024, with a budgetary allocation of INR 10,371.92 crore.

The IndiaAI Mission envisions a robust, multi-sectoral AI ecosystem and will be implemented through seven key pillars:

1. IndiaAI Compute Capacity
2. IndiaAI Application Development Initiative
3. IndiaAI FutureSkills
4. Safe & Trusted AI
5. IndiaAI Innovation Centre
6. IndiaAI Datasets Platform
7. IndiaAI Startup Financing

A multi-stakeholder Advisory Group, chaired by the Principal Scientific Adviser (PSA), has been constituted to develop an India-specific AI regulatory framework. A dedicated Subcommittee on AI Governance and Guidelines Development is tasked with recommending actionable governance measures.

PROPOSED AI GOVERNANCE PRINCIPLES

Aligned with global and national initiatives (OECD Principles, NITI Aayog's Responsible AI Report, NASSCOM's RAIRK 2022, and Guidelines for Generative AI 2023), the subcommittee recommends the following foundational principles:

- **Transparency:** Ensure AI systems provide clear information on their design, capabilities, limitations, and decision-making processes.

- **Accountability:** Establish responsibility among developers and deployers for system outcomes and adherence to user rights and the law.
- **Safety, Reliability & Robustness:** Design systems to be resilient, error-tolerant, and resistant to misuse.
- **Privacy & Security:** Uphold privacy rights and comply with data protection laws.
- **Fairness & Non-Discrimination:** Develop inclusive systems that avoid bias and promote equitable access. Operationalizing the Principles

The report identifies **three key conceptual approaches** for effective implementation:

1. **Lifecycle-Based Assessment:** Evaluate risks and safeguards at each stage-development, deployment, and diffusion-since vulnerabilities vary across the lifecycle.
2. **Ecosystem View of AI Actors:** Recognize multiple stakeholders-data principals, providers, model developers, deployers, and end-users-as co-creators in the AI ecosystem.
3. **Techno-Legal Governance:** Supplement legal oversight with technology-based tools to enhance compliance, automate monitoring, and manage complex AI systems at scale.

Compliance with Existing Legal Frameworks

1. Deepfakes & Malicious Content

India's current laws (e.g., Sections 319 and 356 of the BNS and Sections 67A & 67B of the IT Act) address harmful content such as impersonation, defamation, and obscene material. However, enforcement and clarity around AI-generated media require strengthening.

2. Intellectual Property Challenges

Key concerns include:

- **Training on copyrighted data:** Indian copyright law allows only a narrow set of non-infringing uses. Liability in case of unauthorized use by AI systems remains a grey area.
- **Copyrightability of AI-generated works:** The law's requirement of human authorship complicates the

protection of AI-generated outputs. The threshold of human involvement for authorship needs further clarity.

Subcommittee Recommendations

- I. Establish an empowered AI governance coordination mechanism under MeitY and the PSA to drive a whole-of-government approach.
- II. Set up a Technical Secretariat as a central advisory and coordination body to support the Advisory Group.
- III. Develop an AI Incident Database to capture real-world harms and guide policy responses.
- IV. Facilitate industry engagement for voluntary transparency commitments, especially for high-impact AI systems.
- V. Assess technology-based governance solutions to complement legal enforcement and support scalable, systems-level regulation.
- VI. Form a sub-group to collaborate with MeitY on legal and institutional reforms under the proposed Digital India Act (DIA) to harmonize digital regulations and enhance grievance redress mechanisms.

Conclusion

Effective regulation is not just about restricting harm but also enabling innovation by offering legal clarity and certainty. The core of India's AI governance strategy should be harm mitigation, ensuring that regulations are risk-based, proportionate, and foster responsible innovation. As India builds its AI future, adopting a principled, lifecycle-aware, ecosystem-driven, and techno-legal approach will be key to sustainable and ethical AI deployment.

RELEASE OF DRAFT 2025 CRI GUIDELINES BY INDIAN PATENT OFFICE

We would like to inform you that on March 25, 2025, the Indian Patent Office released the first draft of the 2025 Guidelines for Examination of Computer-Related Inventions (CRI). This draft introduces several important changes and clarifications aimed at improving the prosecution of CRI applications in India.

Key Highlights of the Draft Guidelines:

- (a) **Emphasis on "Technical Effect" and "Technical Contribution":** The draft introduces a significant shift by requiring a demonstrable technical effect or technical contribution for CRIs to be considered patentable. This aligns with recent judicial interpretations and provides clearer guidance beyond the traditional focus on software and algorithms.
- (b) **Recognition of Emerging Technologies:** For the first time, the guidelines explicitly reference AI, blockchain, cloud computing, quantum computing, and the Internet of Things (IoT). This reflects the IPO's intent

to provide a more robust framework for evaluating inventions in these dynamic technological areas.

- (c) **Clarification on Section 3(k) Exclusions:** The draft seeks to provide better clarity on exclusions under Section 3(k) of the Patents Act, specifically around "computer programs per se." It distinguishes between non-patentable computer programs and those offering a technical solution to a technical problem, which may qualify for patent protection.

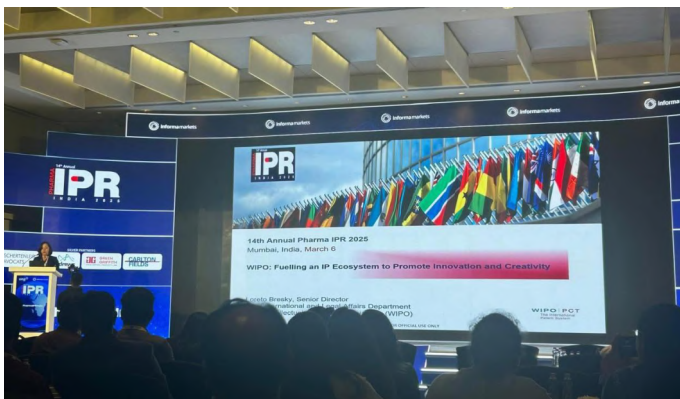
Public Consultation:

The Indian Patent Office is inviting public comments and stakeholder feedback on the draft guidelines.

- (a) **Deadline for submissions: April 15, 2025**
- (b) **Email for submission:** [sukanya\[dot\]ipo\[at\]nic\[dot\]in](mailto:sukanya@ipo.nic.in)
- (c) **Subject line:** "Comments on Draft CRI Guidelines 2025"
- (d) **Full draft available at:** [\[https://ipindia.gov.in/newsdetail.htm?1067\]](https://ipindia.gov.in/newsdetail.htm?1067)

FIRM PARTICIPATION AT THE 14TH ANNUAL PHARMA IPR INDIA CONFERENCE, 2025

We are delighted to share that Ms. Priti More, Associate Partner, had the privilege of attending the 14th Annual Pharma IPR India Conference, held in Mumbai from March 4-6, 2025. This premier event brought together top industry leaders, legal experts, and innovators to discuss the ever-evolving landscape of Intellectual Property in the Pharmaceutical sector.



The conference served as a powerhouse of insights, featuring thought-provoking panel discussions on patent strategies, regulatory developments, and emerging litigation trends. The sessions provided valuable perspectives on key aspects of pharmaceutical IP, including patent exclusivity, enforcement challenges, and global compliance frameworks.



Beyond the discussions, the event also facilitated meaningful networking opportunities, allowing attendees to engage with IP professionals, reconnect with industry leaders, and foster new collaborations.

With the pharmaceutical industry at a transformative juncture, such discussions play a vital role in shaping the future of patent law, innovation, and market dynamics. We look forward to continued engagement with the industry and eagerly anticipate the next edition of this influential gathering.



INTA PRE-ANNUAL MEETING RECEPTION – KEY TAKEAWAYS FROM AN INSIGHTFUL EVENING

On March 7, 2025, our associate partner Priti More and Trademark Associate Ananya Sinha had the opportunity to attend the INTA Pre-Annual Meeting Reception, an engaging event that brought together IP professionals, brand owners, and legal experts to discuss the evolving landscape of trademark law. The evening featured two thought-provoking sessions, each offering valuable insights into critical aspects of brand protection.

The first session, "**Strength of a Mark: A Business Perspective**," explored how businesses can build and sustain strong trademarks. The discussion highlighted the importance of distinctiveness, consumer perception, and strategic brand positioning in ensuring long-term market relevance and legal protection. It was particularly insightful to hear industry leaders share real-world examples of how strong trademarks contribute to business success.

The second session, "**Unconventional Trademarks: Protection and Enforcement in India**," focused on the growing significance of non-traditional trademarks, such as colors, sounds, and shapes. The session addressed the legal challenges surrounding their registration and enforcement in India, providing an in-depth analysis of recent cases and regulatory trends. The conversation underscored the need for businesses to adapt their IP strategies to keep pace with evolving legal frameworks.

Beyond the structured discussions, the evening fostered meaningful networking opportunities, allowing attendees to exchange ideas and perspectives on the future of brand protection. As the legal and business environment continues to shift, such discussions are crucial in shaping strategies for safeguarding intellectual property.

Attending this event reinforced the importance of staying ahead of emerging IP trends, and we look forward to further conversations at INTA's Annual Meeting.





IP SNIPPETS:

PATENT CASES:

BASF SE (Appellant) vs JOINT CONTROLLER OF PATENTS AND DESIGNS AND ORS, (Respondent)

CASE NO.: IPDPTA/5/2024

DECIDED ON: March 7th, 2025



The appellant has filed an appeal against the respondent challenging the rejection of the appellant's patent application on the grounds of obviousness,

lack of inventive step and insufficiency of disclosure. The appellant contended that the rejection was marred by undue and unexplained delays, rendering the purpose of patent protection ineffective, as only one year was remaining to end the term of patent. Therefore, the impugned order should be set aside on the ground of delay, violating the principle of natural justice. The appellant also contended the respondent failed to appreciate the technical advantage of the appellant's invention.

The Hon'ble Calcutta High Court observed the prolonged pre-grant opposition proceedings which significantly contributed to the delay, with the last opposition being filed nearly 17 years after the application's initial submission. The Hon'ble Court noted that the impugned order misapplied the test of obviousness, failing to consider expert affidavits and disregarding the key technical advancements of the appellant's patent application. Considering the procedural lapses and the extensive delays, the Hon'ble Court concluded by setting aside the impugned order and directed the patent office to issue a hearing notice within two weeks, ensuring that the matter is reheard by a different Controller.

ATLAS COPCO AIRPOWER NAAMLOZE VENNOOTSCHAP (Appellant) vs THE CONTROLLER GENERAL OF PATENTS AND DESIGNS AND ANR (Respondent)

CASE NO.: IPDPTA/12/2022

DECIDED ON: February 26th, 2025



In the present case, the appellant has filed an appeal against the respondent for rejecting the appellant's patent application on the ground of lack of inventive steps

under section 2(1) (ja) of the Patents Act, 1970. The appellant contended that the rejection order was arbitrary, as it introduced a new prior art reference during the hearing stage, which was not cited in the First Examination Report, depriving a fair opportunity to respond and violating principles of natural justice.

The Hon'ble Calcutta High Court observed that the impugned order lacked reasoning and failed to establish a clear connection between the cited prior arts and the rejection conclusion. The Hon'ble Court noted that the respondent had merely reproduced prior art references without explaining how they rendered the appellant's patent application as non-inventive. The Hon'ble Court concluded by setting aside the impugned order and remanding the matter back for reconsideration.

UPL LIMITED (Petitioner) vs UNION OF INDIA & ORS. (Respondent)

CASE NO.: WPA-IPD 2 of 2024

DECIDED ON: February 25th, 2025



The petitioner has filed a writ petition against the respondent challenging a communication for adjourning the hearing of petitioner's patent application. The respondent no. 6 had filed the second pre-grant opposition against the petitioner's patent application citing the common prior arts which were cited previously in the first pre-grant opposition. The petitioner contended that the respondent authorities issued an improper email adjourning the hearing related to second pre-grant opposition without following the procedural mandates of the patent act. Demonstrating the impugned communication, the appellant further states that no *prima facie* was found in the second pre-grant opposition and the impugned notice was issued in a mechanical manner.

The Hon'ble Calcutta High Court observed that the petitioner's patent application has been pending for the long period of time and repeated adjournments were granted without assigning any reasons. The Hon'ble Court noted a serious violation of natural justice and fairness by the respondent. The Hon'ble Court directed that the matter to be assigned to a different Controller for fresh hearing. The Hon'ble Court ordered to consider the patent application and the first pre-grant opposition afresh from the hearing stage and the Hon'ble Court directed to follow Rule 55(3) of the Patent Rules 2003 while considering the second pre-grant opposition and record *prima facie* reasons for considering or rejecting the pre-grant opposition.

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
(Appellant) vs THE CONTROLLER OF PATENTS
(Respondents)**

CASE No.: C.A.(COMM.IPD-PAT) 481/2022
DECIDED ON: February 21st, 2025

In the present case, the appellant has filed an appeal against the respondent for refusing the appellant's patent application on the grounds that the claims do not pass on the criteria as mentioned under section 10(4) and 10(5) of the Patents Act and also denied the eligibility for patent protection on account of Section 3(c) of the Act. Explaining the novelty of the claims, the appellant contended that the respondent has erred while refusing the patent application under section 3(c) and 10(4). Additionally, the appellant states that the respondent had failed to provide adequate reasoning while refusing the appellant's patent application under section 10(5), thereby violating the principles of natural justice. The respondent countered by alleging that the appellant's patent application attracts section 3(c) of the Act and also fails to fulfill the requirements under Section 10(4) and 10(5) of the Act.

The Hon'ble Delhi High Court upheld the refusal with all the grounds cited by the respondents. The Hon'ble Court stated that the appellant's patent application is hit by the non-patentability under section 3(c), the appellant also failed to sufficiently disclose the patent application in terms of Section 10(4) of the Act. Further on, the Hon'ble Court noted that the claims of the patent application were also indefinite and not fairly based on the specification, lacking the criteria mentioned in section 10(5) of the Act. The Hon'ble Court concluded by dismissing the present appeal and holding the rejection by the respondent.

**VGX PHARMACEUTICALS INC (Appellant) vs THE
CONTROLLER GENERAL OF PATENTS, DESIGNS
AND TRADEMARKS (Respondent)**

CASE NO.: C.A.(COMM.IPD-PAT) 48/2022
DECIDED ON: February 18th, 2025

The current appeal has been filed by the appellant against the respondent for refusing the appellant's patent application. The appellant contended that the respondent had refused their patent application, based on prior art documents D4 and D5, which was introduced for the first time in the hearing notice without proper reasoning. Additionally, the appellant contended that the impugned order failed to provide any substantive analysis of how the cited prior arts D4 and D5 cover the inventiveness of the appellant's patent invention.

The Hon'ble Delhi High Court observed that the respondent mentioned the relevancy of the prior art D1, D2 and D3 with regard to the appellant's patent application but failed to provide proper reasoning to justify the objection pertaining to lack of inventive step in view of the prior arts D4 and D5 and yet refused the appellant's patent application relying on prior arts D4 and D5. The Hon'ble Court found no linkage to make a case lack of inventiveness while comparing the prior arts D4 and D5 against the appellant's patent application. The Hon'ble Court concluded by setting aside the impugned order, as the impugned order lacked justification for refusing the appellant's patent application and remanded the matter to the patent office for fresh consideration.

**TAHOE RESEARCH LTD.(Appellant)vs THE
CONTROLLER OF PATENTS (Respondent)**

CASE NO.: CMA(PT)/59/2024and C.M.P.No.27473 of 2024
DECIDED ON: February 18th, 2025

The appellant has filed an appeal against the respondent challenging the rejection of appellant's patent application. The appellant argued that the ground for rejection was inconsistent, as the hearing notice did not previously raise objections to the features incorporated from the original claims 2 and 4 into independent claim 1. Additionally, the appellant contended that the respondent had incorrectly incorporated the EPO's reasoning without acknowledging the differences in claim structures between the Indian and European application. The respondent counter argued that the claims submitted before the Indian Patent Office (IPO) was similar to the European Patent Office (EPO), therefore the respondent adopted the similar reasoning while rejecting the appellant's patent application.

The Hon'ble Madras High Court observed that the appellant was not given a reasonable opportunity to address the specific objections before rejection, thereby violating the principles of natural justice. The Hon'ble Court further held that the respondent had adopted the EPO's conclusions without independently assessing the differences in current independent claim 1 and EPO's independent claim 1. The Hon'ble Court concluded by setting aside the impugned order and remanding the matter for reconsideration by a different officer.

1. SHIMADZU CORPORATION & 2. NATIONAL CENTER FOR GERIATRICS AND GERONTOLOGY (Appellant) vs THE ASSISTANT CONTROLLER OF PATENTS AND DESIGNS (Respondent)

CASE NO.: CMA(PT)/59/2024 and C.M.P.No.27473 of 2024
DECIDED ON: February 13th, 2025


The appellant has filed an appeal against the respondent for rejecting the appellant's patent application under section 3(i) of the Patents Act, 1970. The appellant states that the hearing took place before the judgement of the *Chinese University of Hong Kong*, therefore the appellant could not deal with the judgement to convince the respondent that the patent application does not disclose pathology. The appellant further relied upon the judgment of *Somalagic Operating Company INC. v. The Assistant Controller of Patents and Designs, CMA(PT)/25/2024* to showcase the relevancy of their patent application. The respondent counter argued that the appellant's invention related to a method of diagnosing diseases, such as Alzheimer's disease, clearly disclosing pathology and accordingly qualifying as a diagnostic method.





The Hon'ble Madras High Court noted that procedural fairness was compromised, as the appellant was denied the opportunity to rebut the reasoning applied in the impugned order. Accordingly, the order was set aside, and the matter was remanded for reconsideration. The Hon'ble Court directed the matter to be reheard by a different officer. The Hon'ble Court further ordered to issue a fresh decision within four months, after providing a reasonable opportunity of hearing to the appellant.




TRADEMARK CASES

INDIAN HOTELS COMPANY LIMITED (Plaintiff) vs. GAURAV ROY BHATT & ANR. (Defendants)

CASE NO.: CS(COMM) 717/2023
DECIDED ON: 11th March 2025

The plaintiff filed the present suit against the defendants seeking a permanent injunction to restrain them from infringing on the plaintiff's trademarks, copyrights, and from passing off their services as those of the plaintiff. The plaintiff sought other ancillary reliefs based on allegations of unauthorized use of the  marks by the defendants, which would likely cause confusion and harm to the plaintiff's reputation in the hospitality industry.


The plaintiff contended that its  marks, which have been in use for over a century, are well-known trademarks within the meaning of the Trade Marks Act, 1999. The plaintiff emphasized its long-standing reputation, widespread recognition, and extensive use and promotion of the  brand, both domestically and internationally. The plaintiff pressed for the recognition of the  marks as well-known trademarks. The defendants, who appeared in court, did not contest the plaintiff's prayer for the declaration of the  marks as well-known trademarks. On 24th January 2025, the defendants' counsel submitted that a decree of permanent injunction should be passed against them, effectively conceding to the plaintiff's claims.

The Hon'ble Delhi High Court observed that the plaintiff had provided substantial evidence to support its claim that the  marks had achieved well-known status under the Trade Marks Act. The Hon'ble Court also highlighted the long-standing use of the marks by the plaintiff and the extensive geographical area of their use and recognition. Based on this, the Hon'ble Court concluded that the plaintiff had sufficiently demonstrated that the  marks meet the criteria outlined for recognition as well-known trademarks and a decree was passed in favor of the plaintiff, declaring the  marks as well-known trademarks.

KIRANAKART TECHNOLOGIES PRIVATE LIMITED (Petitioner) vs. MOHAMMAD ARSHAD & ANR. (Respondents)

CASE NO.: C.O. (COMM.IPD-TM) 62/2024 with I.A. 29531/2024 & I.A. 40361/2024
DECIDED ON: 03rd March 2025

The petitioner filed a rectification petition under Sections 47 and 57 of the Trade Marks Act, 1999, seeking the removal of the trademark 'ZEPTO' in Class 35, registered in the name of respondent no.1. The petitioner, a well-established quick-commerce startup, claimed that the respondent had neither used the mark for its registered services nor had any bona fide intent to use it, making the registration a mere blockage in the Trade Marks Register.

The petitioner contended that '  had acquired immense goodwill through continuous use and extensive promotion, while the respondent, despite registering the mark in 2014, had failed to put it to commercial use. The respondent's opposition to the petitioner's application for the same mark in Class 35 was deemed vexatious and intended only to obstruct registration. Despite being served notices, the respondent did not file a reply or appear before the court.

The Hon'ble Delhi High Court observed that the absence of any rebuttal from the respondent implied an admission of non-use. Citing precedent, the Hon'ble Court reiterated that non-use for a continuous period of five years and three months makes a mark liable for removal under Section 47(1)(b) of the Act. Since the respondent failed to justify its lack of use, the court found that the petitioner was an aggrieved party.

Accordingly, the Hon'ble Court directed the Trade Marks Registry to remove the impugned mark 'ZEPTO' from the Register of Trade Marks, ruling in favor of the petitioner.

VEEKESY RUBBER INDUSTRIES PVT LTD. (Petitioner) vs. KAMAL BANSAL (Respondent)

CASE NO.: C.O. (COMM.IPD-TM) 542/2022
DECIDED ON: 27th February 2025

The Petitioner filed a petition against Respondent No.1, challenging the registration of the trademark 'VKG' in Class 25. Petitioner contended that it had been using the 'VKG' trademark since 1985 and held prior rights, whereas Respondent No.1's mark was registered only in 2012, with a claimed user date of 2011. Petitioner argued that the impugned mark was deceptively similar and likely to cause consumer confusion.

Despite multiple notices, the respondent failed to appear or file a reply. Petitioner asserted that the respondent had no genuine use of the 'VKG' mark, making it liable for cancellation under Section 47 of the Trade Marks Act, 1999. Petitioner also contended that the impugned mark violated Sections 9 and 11 due to its deceptive similarity to 'VKG'.

The Hon'ble Delhi High Court emphasized that mere registration does not establish actual use. The respondent's failure to submit any evidence of use reinforced the petitioner's claim of non-user. The Hon'ble Court ruled that passive registration cannot override an established prior user's rights. Additionally, the similarity between 'VKG' and 'VKG' was found to be misleading and detrimental to Petitioner goodwill.

CHOTIWALA FOOD AND HOTELS PRIVATE LIMITED AND ANR. (Plaintiffs) vs. CHOTIWALA & ORS. (Defendants)

CASE NO.: CS(COMM) 33/2023 and I.A. 49906/2024
DECIDED ON: 27th February 2025

The present suit has been filed by the Plaintiffs concerning the well-known restaurant brand 'CHOTIWALA'. The plaintiffs, proprietors of the brand since 1958, claimed exclusive rights over the 'CHOTIWALA' name, associated artistic works, and registered trademarks. They alleged that multiple defendants, operating restaurants in Delhi, had unlawfully adopted the 'CHOTIWALA' name to mislead customers, thereby causing brand dilution and financial harm.

Upon investigation, the plaintiffs discovered that customers were being misled by substandard food from these unauthorized establishments. They filed a suit against several Delhi-based restaurants and online food aggregators such as Zomato and Magicpin, seeking injunctions and damages. Despite multiple notices, the defendants failed to appear before the court, leading to ex-parte proceedings.

The Hon'ble Delhi High Court ruled in favor of the plaintiffs, affirming their proprietary rights over 'CHOTIWALA' and granting a permanent injunction restraining the defendants from using the name. The Hon'ble Court also ordered Magicpin to remove unauthorized listings, and plaintiffs were awarded actual litigation costs.

ABBOTT HEALTHCARE PRIVATE LIMITED (Plaintiff) vs. VINSAC PHARMA (Defendant)

CASE NO.: I.A. 41329/2024 In CS(COMM) 336/2020
DECIDED ON: 17th February 2025

The present suit has been filed seeking relief of permanent injunction restraining the defendants from infringing the trademark of the plaintiffs, by adopting a deceptively similar mark, "LIMEECE," for Vitamin C tablets. The Hon'ble Court has considered the plaintiff's arguments and found that the defendants have no real defense, leading to a summary judgment in plaintiff's favor. The Hon'ble court also noted that the defendants' actions were particularly awful due to the timing during the COVID-19 pandemic and the potential public health risks involved.

**P.PANDIAN (Petitioner) vs. THE REGISTRAR OF
TRADE MARKS (Respondent)**

CASE NO.: W.P.(IPD) No.36 of 2024
DECIDED ON: 10th February 2025

The petitioner, the proprietor of the "WAHEED" trademark filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent to permit the renewal of its trademark registration. The petitioner contended that the trademark status was erroneously marked as expired despite the registration certificate being issued only on 12.09.2020. Due to inaccessibility of the online portal, the petitioner was unable to file the renewal application.

The petitioner argued that no statutory notice was served, informing them of the impending expiry of the registration. Relying on *Motwane Pvt. Ltd. v. Registrar of Trade Marks and Jaisuryas Retail Ventures Pvt. Ltd. v. Registrar of Trade Marks*, the petitioner asserted that non-receipt of notice entitled them to seek renewal. The respondent, however, countered that the renewal fee should have been paid within six months from registration, making the request invalid.

The Hon'ble Madras High Court upheld the petitioner's right to renewal, emphasizing that failure of the Registrar to issue an expiry notice allows the proprietor to seek renewal at a later stage. The Hon'ble Court reiterated its stance from *Jaisuryas Retail Ventures*, directing the respondent to allow renewal either by granting portal access or permitting a physical filing. Accordingly, the writ petition was allowed in favor of the petitioner.



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