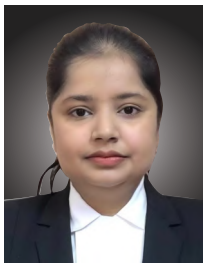


## In This Issue

- **FOOD FOR THOUGHT:  
CAN A RECIPE BE INTELLECTUAL  
PROPERTY?**
- **INDIA'S 2025 CRI GUIDELINES V 2.0:  
A STEP FORWARD IN PATENT CLARITY**
- **IP SNIPPETS**

## FOOD FOR THOUGHT: CAN A RECIPE BE INTELLECTUAL PROPERTY?



- By Ananya Sinha



- By Tanishka Sharma

innovation—chefs, bloggers, and food startups are constantly creating new dishes. With food being commercialized through cookbooks, TV shows, and digital platforms, protecting unique creations is becoming more important.

One key concept here is the *idea-expression dichotomy* in copyright law—basically, the difference between protecting the idea of a recipe versus the unique way it is expressed. This concept will be central as we explore how far copyright can go when it comes to food.

### WHAT IS PROTECTED UNDER COPYRIGHT

### INTRODUCTION



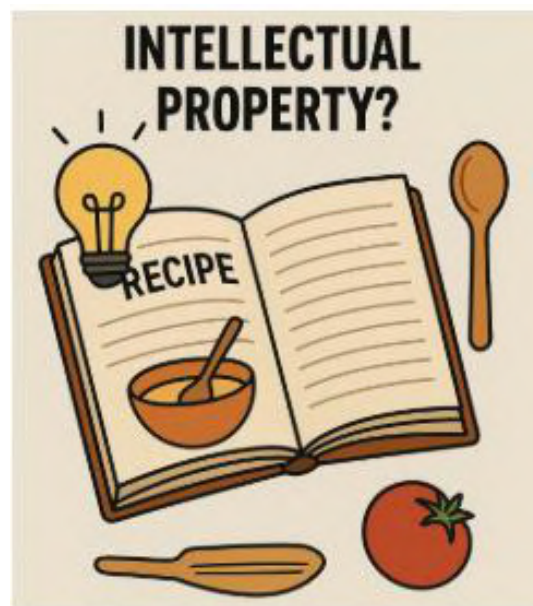
<https://petuz.india.com/dishes/food-recipe>

When it comes to food we think of comfort in our favorite dishes, or exploring new cuisines is not intellectual property. The main question arises whether the dal-roti we are eating could actually be someone's intellectual property? Can recipes like that be copyrighted? It's a surprisingly tricky question. The law regarding copyrighting recipes is quite ambiguous. Some argue that recipes deserve protection, especially when chefs put creativity and effort into their dishes. But others say giving one person a monopoly over food, especially something as basic as dal-roti, doesn't make sense.

To understand whether a dish can be protected or which component of a dish can be protected we must break it down:

1. **Ingredients and measurements**
2. **Preparation method**
3. **Presentation or plating**

Each of these plays a role in how copyright could apply. In a country like India—rich in food culture and culinary



<https://chatgpt.com/>

Copyright law protects original literary, artistic, musical, and dramatic works etc. In India, this protection is governed by the Copyright Act, 1957. Under Section 13, works like books, paintings, films, and computer programs are eligible for copyright. However, there's an important catch: copyright protects the *expression of an idea*, not the idea itself.

That means while you can protect the unique way a concept is written or presented, you can't stop others from using the same basic idea. For instance, a recipe that simply lists ingredients and steps is usually seen as factual information or a functional text, and those aren't protected. ***Unless the recipe is expressed in a highly creative, original way—with storytelling, cultural context, or artistic flair—it may not qualify for copyright.***

This was reinforced in the case *Eastern Book Company v. D.B.*

*Modak (2008)*, where the Supreme Court clarified that originality requires more than just effort; it requires a minimal level of creativity. So, unless a recipe goes beyond the basic functional format, it likely won't get protection.

This is very important when it comes to cooking. Cookbooks that have an expression of recipes in writing, artistic layouts showcasing the dish, and very detailed, story-like introductions may be considered literary or artistic works, but the *recipes themselves which lists of ingredients and steps to follow, are usually seen as factual and useful information, so they can't be copyrighted. So, the way a recipe is written down may be protected, but not the recipe's idea or method.*

#### WHAT IS IDEA-EXPRESSION DICHOTOMY IN RECIPES?



<https://chatgpt.com/>

A fundamental idea in copyright law, the idea-expression dichotomy is especially important when debating whether recipes are protected by copyright. This principle states that although an idea's expression may be protected, the idea itself is not covered by copyright. It is intended to prevent the monopolization of ideas that are crucial to the advancement of culture and the arts by maintaining a careful balance between promoting creative expression and guaranteeing the free exchange of ideas and knowledge. For example, in **R.G. Anand v. Deluxe Films (1978)**, the Supreme Court said that *even if two works have the same idea, there is no infringement unless the way that idea is expressed is similar.*

This is particularly important when it comes to the protection of recipes, especially when determining whether and how much of a recipe can be protected. The fundamental idea behind making a dish, like butter chicken or dosa, is free to use and is regarded as public domain. The concept of combining specific ingredients to create a particular flavour or dish cannot be claimed as exclusive to any one person. *However, a recipe may be eligible for protection as a literary work under the Copyright Act, 1957, if it is recorded in a distinctly unique and expressive way, including personal touch, cultural values & narratives, or creative descriptions.*

#### COPYRIGHT PROTECTION FOR RECIPES

Recipe creators may want protection for their recipes under the Copyright Act of 1957 but for that they need to bring in creativity in the way they present the process while listing the ingredients. Merely giving list of ingredients and detailing the process may not get them any protection.

Nonetheless, there is a thin line of culinary expression that is between practicality and imagination. A recipe may qualify as an original literary work if it is incorporated into narrative storytelling or a unique literary expression. In these situations, the recipe becomes a way for authorship and individual expression rather than just a manual for food preparation. Because of the distinctive text used to convey it, rather than the dish itself, a recipe that incorporates reflections on the writer's familial traditions, regional customs, or the historical evolution of a dish may qualify as a protectable work.

It is believed that the courts have neglected recipes' potential as literary and cultural expressions eligible to get protection rather they have put emphasis on usefulness of recipes. Some critics stress that many recipe books or any culinary expression is sufficiently unique to be eligible for copyright protection and claim that the "grounds on which recipes are denied protection are vague."

Given this, cookbooks that include recipes as a component of a part of a bigger text or written in a creative and unique way may in fact be protected by copyright. Rather than being straightforward instructions of a dish, these creative texts are more likely to be considered as monologues and literary work because they blend with narrative, mixing culture along the way, and a unique narration of the recipe. It is important to remember that copyright protection does not cover the underlying culinary concept, method, or flavour of a dish; rather, it only covers the specific expression, which includes the words and presentation of the dish. This distinction highlights the component of a recipe which can be copyrighted and encourages chefs to not only create innovative dishes but also write them in a unique way.

## TRADE SECRETS



<https://mymeadowreport.com/>

Apart from copyright, trade secrets offer another way to protect recipes—especially in the food industry. A trade secret is any confidential business information which provides an enterprise a competitive edge. To qualify as a trade secret, the recipe must:

1. Be known only to a limited group of people,
2. Provide a commercial advantage to its holder, and
3. Be subject to reasonable efforts to maintain its secrecy.

Famous examples include Coca-Cola's secret formula, KFC's spice blend, and the recipe for Listerine. These recipes are never publicly disclosed and are safeguarded by strict internal protocols and legal agreements like NDAs (non-disclosure agreements).

In India, while there is no standalone legislation on trade secrets, they are protected through contractual obligations and principles of equity and breach of confidence under common law. Indian courts have upheld trade secret protection in various cases, often applying doctrines of implied confidentiality.

For restaurants, food startups, and large food chains, trade secrets offer a practical and strategic route to protect their signature dishes or preparation processes. Unlike copyright, trade secret protection can last indefinitely—as long as secrecy is maintained. However, once the information becomes public, the protection is lost.

However, it must be kept in mind that just terming the routine as a trade-secret may not end up giving protection. A trade-secret is only a trade-secret as long as it separates the product from others.

So, while a home chef may not be concerned with trade secrets, businesses that rely on the uniqueness of their food offerings often treat their recipes as confidential know-how. Protecting these trade secrets ensures exclusivity and can be key to their brand identity and long-term success.

## CONCLUSION

In conclusion, there is still a lot of room for legal protection of culinary works and recipes that show originality, even though Indian copyright law clearly prohibits recipes in their functional form. Recipe books are more than just instruction books to create a dish, they are culmination of storytelling, secret menus passed down by the family a unique identity of the chef. The recipes are whole new narrative and if this is recognised and protected then the law may be lenient when it comes to culinary arts.

The intersection of food and intellectual property is more relevant today than ever. While Indian copyright law doesn't protect the bare bones of a recipe, it does offer protection when that recipe is infused with creativity, culture, and individuality. The idea-expression dichotomy helps us understand this boundary.

For chefs, food writers, and culinary innovators, this means the key isn't just in cooking something great—it's in how you choose to tell that story. When done right, a recipe can become more than a dish. It can become a protected expression of identity, heritage, and imagination, and make for good video and reels too!

## INDIA'S 2025 CRI GUIDELINES V 2.0: A STEP FORWARD IN PATENT CLARITY



- By Divyendu Verma

On July 29, 2025, the Indian Patent Office published its new Guidelines for the Examination of Computer Related Inventions (CRIs), ushering in a transformative era for technology and software patent applications in India. These guidelines address the evolving technological landscape and respond to the global demand for higher clarity, consistency, and predictability in the patenting process for innovations in software, artificial intelligence (AI), machine learning (ML), blockchain, and other cutting-edge fields.

### Background: Why New CRI Guidelines?

India's previous guidelines, issued in 2017, faced criticism for inconsistent interpretation - especially around Section 3(k) of the Indian Patents Act, which bars patents on computer programs "per se." The rapid pace of tech development, especially in AI and blockchain, underscored the need for rules that could keep pace with innovation while offering legal clarity to inventors and stakeholders.

### KEY FEATURES OF THE 2025 GUIDELINES

**1. Comprehensive Legal Foundation:** The guidelines consolidate and clarify legal principles from 19 important court cases, offering much-needed direction on how patent examiners should approach CRIs. They emphasize a "technical effect or technical contribution" assessment, ensuring that claims are not rejected merely for involving software but evaluated on their substantive technical impact.

**2. Detailed Stepwise Examination Process:** A new stepwise methodology, supported by detailed flowcharts and scenario-based illustrations, guides examiners and applicants in determining the allowability of claims. The process aids in distinguishing between patent-eligible inventions and those excluded as abstract computer programs, algorithms, or business methods.

**3. Specific Guidance for Emerging Technologies:** For the first time, dedicated sections address AI, ML, deep learning, blockchain, and quantum computing. These sections highlight the requirements for adequate disclosure and list

scenarios when such inventions might be considered patentable or excluded under Section 3(k). This move aims to create better alignment with international standards and best practices, while still reflecting India's unique legal landscape.

**4. Clarification of System and Method Claims:** The guidelines confirm that both "system" and "method" claims may be permissible, provided they are properly supported in the specification. This brings Indian practice closer to other global patent offices, offering greater protection flexibility to inventors of technology solutions.

**5. Expansive Annexures and In-Depth Examples:** With over 60 annexed examples, including those specifically for AI, ML, and blockchain, the guidelines illustrate what constitutes patentable and non-patentable subject matter under various scenarios. These real-world examples address longstanding ambiguity and help applicants structure their claims to enhance the chance of acceptance.

### PRACTICAL IMPACTS FOR STAKEHOLDERS

**Improved Predictability for Innovators and Industry:** Startups and tech firms seeking Indian patents can now more confidently draft their disclosures and claims, supported by clarity on how terms like "technical effect" and "technical contribution" are assessed.

**Higher Disclosure Standards:** Applicants must provide detailed enabling disclosures for inventions in AI, ML, or emerging tech spaces—demonstrating specifics on architecture, training data, and problem-solution narratives. Overly broad or abstract filings are much less likely to succeed, raising the quality bar for CRIs.

**International Alignment:** While India's guidelines reflect local legislation and jurisprudence, they move closer to US, European, and Japanese approaches, especially in handling software and AI inventions. This harmonization helps global innovators understand and anticipate Indian requirements without a steep learning curve.

### WHAT'S NEXT:

The 2025 CRI Guidelines followed extensive stakeholder feedback and are set to evolve as technology and jurisprudence advance. Patent applicants and attorneys should ensure compliance with heightened disclosure and drafting requirements. The publication is an important step in supporting genuine innovation, discouraging "abstract" or purely business-method patents, and positioning India as a competitive destination for patent protection in the digital era. For inventors, legal professionals, and technology businesses, understanding and adapting to these new rules will be crucial in turning innovative ideas into protected intellectual property.



## IP SNIPPETS:

## PATENT CASE:

### ITC LTD (Appellant) vs ASSISTANT CONTROLLER OF PATENTS AND DESIGNS (Respondent)

CASE NO.: IPDPTA/6/2024

DECIDED ON: July 24, 2025



The appellant filed an appeal against the respondent for rejecting the appellant's patent application on the grounds of non-patentability under section 3(b), lack of inventive step under section 2(1)(j) of the Patent Act and for lack of industrial application. The appellant stated that the respondent relied on several document and material while passing the impugned order without providing an opportunity to the appellant to be heard thereby violating the principle of natural justice. The appellant argued that the respondent also failed to provide any reference as to why the application was not patentable under section 3(b).

The Hon'ble Calcutta High Court observed that the hearing notice does not explain as to how and why the prior art cited by the respondent discloses the parameters similar to as in the claimed application. The Hon'ble Court also noted that the respondent failed to provide the appellant an opportunity to present views and arguments which is ex facie in violation of the principles of natural justice. The Hon'ble Court concluded by setting aside the impugned order and remanded the matter back for fresh hearing.

## TRADEMARK CASES

### PERNOD RICARD INDIA PRIVATE LIMITED & ANOTHER (Appellants) vs KARANVEER SINGH CHHABRA (Respondent)

CASE NO.: CIVIL APPEAL NO. 10638 OF 2025 [Arising out of SLP (C) No. 28489 OF 2023]

DECIDED ON: 14th August 2025

In the present suite the Appellants owners of "BLENDERS PRIDE", "IMPERIAL BLUE", and house mark "SEAGRAM'S" sued respondent. Appellants alleged that the respondent sold whisky as "LONDON PRIDE" using a name deceptively similar to BLENDERS PRIDE, packaging/trade dress mimicking IMPERIAL BLUE, and SEAGRAM'S-embossed bottles, amounting to infringement, passing off, and copyright violation. Appellants sought a permanent

injunction and, at the interim stage, a temporary restraint. Both the Commercial Court (26.11.2020) and the High Court (03.11.2023) refused interim relief then appellants appealed to the Hon'ble Supreme Court.

The plaintiff alleged that the defendant's mark "LONDON PRIDE" copied the essential features of its mark "BLENDERS PRIDE," while the overall packaging imitated "IMPERIAL BLUE" through the blue-and-gold colour scheme, dome device, and layout. The plaintiff further argued that the use of the "SEAGRAM'S" embossing evidenced bad faith. The defendant, on the other hand, contended that the marks and trade dress were dissimilar, that "PRIDE" is a generic, laudatory term and publici juris, and that premium whiskies are purchased by discerning consumers. It was submitted that sealed box packaging and distinct labels eliminate confusion, no exclusive right exists in the shape of the bottle, and no prima facie case or irreparable harm had been established.

The Hon'ble Supreme Court held that marks must be compared as a whole and the common element "PRIDE" cannot be dissected in isolation. Hon'ble Court noted that the dominant elements "BLENDERS," "IMPERIAL," and "LONDON" are distinct, while "PRIDE" is a commonplace expression, incapable of monopoly with no proof of secondary meaning. The Hon'ble Court further observed that the appellants had produced no cogent evidence, such as consumer surveys or recognition studies, to demonstrate that "PRIDE" identifies their goods; turnover and advertising figures alone were insufficient. The Hon'ble Court found that the packaging, labels, and bottle shapes were materially different, and there was no registered shape mark. The claim regarding the "SEAGRAM'S" embossing was also unsubstantiated on record. Considering that premium and ultra-premium whiskies are purchased with greater attention, the likelihood of confusion was further diminished.

The Hon'ble Supreme Court reiterated that there can be no "mini-trial" at the interim stage. Finding that the courts below had applied the correct legal tests, the Supreme Court dismissed the appeal and refused interim injunction. Hon'ble Supreme Court directed the Commercial Court to expedite the trial and dispose of the suit within four months, clarifying that the present observations were confined to the interlocutory stage, with no order as to costs.

### PITAMBARI PRODUCTS PRIVATE LIMITED (Plaintiff) vs SAWARIYA COLLECTION DELHI (Defendant)

CASE NO.: IA (L) NO. 25035 OF 2025 IN COMM IPR SUIT (L) NO. 24983 OF 2025

DECIDED ON: 14th August 2025



The present suit was filed by the plaintiff a well-known FMCG company, against the defendant for **disparagement and trademark violation**. The defendant had uploaded a viral video on Instagram & YouTube (July 2025) claiming that Pitambari's cleaning powder contained harmful chemicals and was unfit for cleaning religious idols.

**Plaintiff contended** that the video was false, malicious, and misleading, aimed at damaging Pitambari's goodwill and reputation. Their product is government-approved, safe, and has been used by consumers for decades.

The Hon'ble Bombay High Court noted plaintiff's **strong goodwill and registered trademark rights** (in use since 1983) and held that the impugned video clearly disparaged and denigrated the product. The Hon'ble Court emphasized that while businesses may praise their own goods, they cannot **ridicule or degrade competitors' products**. The Hon'ble Court granted an **ex-parte ad-interim injunction**, restraining the defendant from circulating, sharing, or broadcasting the impugned video or any similar content, and from disparaging plaintiff's products in any manner.

### MOONDUST PAPER PVT LTD. (Petitioner) vs VINAY SHAW AND OTHERS (Respondents)

CASE NO.: IA NO. GA-COM/1/2024 In IP-COM/44/2024  
DECIDED ON: 8th August 2025

In the present suit, the petitioner instituted proceedings against multiple respondents for trademark and copyright infringement as well as passing off, based on its registered marks "CAPTAIN GOGO" and "GOGO" and associated artwork. During raids, the respondents were found stocking look-alike products under marks such as "GOGA," "GO N GO," "GO THREE," and "CAPTAIN COCO."

The plaintiff argued that the defendants were selling identical goods through the same trade channels under visually and phonetically similar marks, thereby causing consumer confusion. The defendants failed to appear before the Court.

The Hon'ble Calcutta High Court held that the respondents' marks were visually and phonetically similar to the plaintiffs, and that consumer perception in India was a crucial factor. Finding a clear likelihood of deception, the Hon'ble Court applied the classic principles of passing off laid down in *Cadila Healthcare Limited v. Cadila Pharmaceuticals Limited* (2020) 5 SCC 73 and *Laxmikant V. Patel v. Chetanbhai Shah* (2002) 3 SCC 65. Observing a strong prima facie case, the Hon'ble Court granted an ex-parte injunction restraining the defendants from infringing the plaintiff's trademarks and copyright.

### IMPRESARIO ENTERTAINMENT AND HOSPITALITY PVT. LTD. (Plaintiff) vs M/S. DVG SOCIALS BAR AND KITCHEN THROUGH ITS PROPRIETOR (Defendant)

CASE NO.: CS(COMM) 797/2025 & I.As. 18906-09/2025  
DECIDED ON: 05th August 2025

In the present suit, the plaintiff filed a suit against the defendant for using the marks "DVG SOCIALS / SOCIALS DAVANAGERE / DVG SOCIALS BAR & KITCHEN" and the domain name "dvgsocials.com," alleging trademark infringement. The plaintiff contended that "SOCIAL" is its registered trademark across various classes, employed in a unique location-prefixing format (e.g., area + SOCIAL), and backed by significant turnover and advertising expenditure. It was alleged that the defendant had copied the dominant element "SOCIAL" along with the location-prefix scheme, despite being served with multiple cease-and-desist notices.

The Hon'ble Delhi High Court held that the defendant's marks were deceptively similar, observing that "SOCIAL" is arbitrary and fanciful in relation to restaurants, and that the plaintiff, has built substantial goodwill in the mark. The Hon'ble Court found that the plaintiff's registration established a prima facie case of infringement, with the balance of convenience and irreparable harm tilting in its favour. Accordingly, an ex parte ad-interim injunction was granted, restraining the defendant from using "SOCIAL," its confusing variants, or engaging in allied infringing acts. The matter was directed to be listed for further proceedings.

### RAHUL MISHRA & ANR. (Plaintiffs) vs NISHCHAIY SAJDEH & ORS. (Defendant)

CASE NO.: CS(COMM) 786/2025  
DECIDED ON: 04th August 2025



The plaintiffs filed a suit against defendants for copyright infringement and passing off.

The plaintiffs alleged unauthorized copying of their "Tigress Artistic Work" and imitation of the distinctive floral motifs and overall get-up from their luxury "Sunderbans" couture collection.



Plaintiffs alleged that the defendants were intentionally replicating embroidery patterns and floral motifs, selling cheap imitations online and offline, thereby diluting brand value and deceiving customers. Plaintiffs copyrighted artistic work was being exploited without authorization. Some defendants on the other hand admitted ignorance,

apologized, and removed the products and others remained silent or unresponsive. Defendant No. 2 was alleged to be the main supplier of infringing fabrics to others.

The Hon'ble Delhi High Court found a prima facie case of infringement and passing off, noting that the defendants' products were deceptively similar to plaintiff's couture works, leading to consumer confusion. The Hon'ble Court also acknowledged admissions from several defendants who had already removed infringing content. The Hon'ble Court granted an *ex-parte ad-interim injunction*, restraining all defendants from manufacturing, selling, advertising, or dealing in products featuring the “**Tigress Artistic Work**” or similar motifs. Defendants were also directed to take down infringing listings and preserve sales records.

## COPYRIGHT CASES

**PHONOGRAPHIC PERFORMANCE LIMITED (Plaintiff)  
vs URBAN MAYABAZAR AND ORS. (Defendants)**

CASE NO.: I.A. (L) NO. 13646 OF 2025 IN COMM IP  
SUIT (L) NO.11705 OF 2025  
DECIDED ON: 8th August 2025

The present suit was filed by the Plaintiff against defendants for copyright infringement. Plaintiff alleged unauthorized public performance of sound recordings from its licensed repertoire without obtaining a license.

Plaintiff contended that the defendants played copyrighted songs at their restaurants and events (including New Year's Eve 2024), despite repeated notices demanding license fees. Video evidence confirmed unauthorized commercial exploitation. Defendants did not appear in court or respond to legal notices, indicating disregard for copyright compliance.

The Hon'ble Bombay High Court held that PPL, being an assignee of copyrights from music labels, had exclusive rights to grant licenses. Defendants' conduct of continuing public performance without license, despite prior notice, amounted to prima facie infringement. The Hon'ble Court issued an ad-interim injunction restraining defendants, their partners, employees, agents, and event managers from publicly performing or communicating plaintiff's sound recordings at their premises or events without obtaining proper licenses.

**SPORTA TECHNOLOGIES PVT. LTD. (Plaintiff)  
vs JOHN DOE AND ORS (Defendants)**

CASE NO.: CS(COMM) 807/2025 & I.As. 19316-20/2025  
DECIDED ON: 8th August 2025

**FANCODE**

The present suit has been filed seeking dynamic injunction restraining the Defendants for infringing broadcast reproduction rights (Section 37, Copyright Act) in multiple live sports properties and for Trademark infringement by using “**FanCode**”. Plaintiff contended that they holds exclusive India and world broadcast rights via multiple agreements. Defendants misuse the plaintiff mark “**FanCode**” during live telecasts due to which piracy spikes causing major revenue loss to the plaintiff.

The Hon'ble Delhi High Court noted that the documents on record demonstrated the plaintiff's exclusive broadcast rights, while the screenshots established unauthorized streaming and misuse of the “**FanCode**” marks. The Hon'ble Court held that this prima facie case, if left unchecked, would cause irreparable harm to the plaintiff. Accordingly, the defendants were restrained from disseminating pirated sports content covered under the plaintiff's agreements, as well as from using the “**FanCode**” trademarks. The Hon'ble Court also contemplated dynamic relief to address mirror websites and pop-ups.



902, Kamdhenu Commerz, Sector - 14, Kharghar, Navi Mumbai - 410210. MH, INDIA  
+91 22 46083609 / +91 83739 80620  
info@duxlegis.com

[www.duxlegis.com](http://www.duxlegis.com)

### Editorial Board

**Editor**  
Divyendu Verma

**Sub - Editor**  
Priti More

**Content Editor**  
Vinod Chand

**Designer**  
Nilesh B.

**Disclaimer:** This publication is intended to provide information to clients on recent developments in IPR industry. The material contained in this publication has been gathered by the lawyers at DuxLegis for informational purposes only and is not intended to be legal advice. Specifically, the articles or quotes in this newsletter are not legal opinions and readers should not act on the basis of these articles or quotes without consulting a lawyer who could provide analysis and advice on a specific matter. DuxLegis Attorneys is a partnership law firm in India.

© 2024-25 DUXLEGIS

This Newsletter is published by DuxLegis Attorneys from 902, Kamdhenu Commerz, Sector 14, Kharghar, Navi Mumbai, Maharashtra, India on 4th September, 2025.