DuxLegis
Attorneys

IP AY ATTENTION

Gateway to IP World

Newsletter | Issue 36 | December 2025

In This Issue

- NOT ALL DIAGNOSTICS ARE BARRED: DELHI HIGH COURT'S IMPORTANT CLARIFICATION ON SECTION 3(i)
- DUXLEGIS CELEBRATES DIVYENDU'S APPOINTMENT TO THE AIPLA ASIA PACIFIC COMMITTEE
- DUXLEGIS AT THE AIPLA ANNUAL MEETING 2025, WASHINGTON D.C.
- INNOVATION MAHAKUMB 2025: STRENGTHENING INNOVATION JOURNEY WITH IP INSIGHT
- IP SNIPPETS

DuxLegis
Attorneys

IP AY ATTENTION
Gateway to IP World

NOT ALL DIAGNOSTICS ARE BARRED: DELHI HIGH COURT'S IMPORTANT CLARIFICATION ON SECTION 3(i)

Priti More

Sahana Mabian

C.A.(COMM.IPD-PAT) 7/2021
Decided on: October 09, 2025

EMD MILLIPORE CORPORATION (Appellant) vs. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS (Respondent)

INTRODUCTION:

In the present case the Delhi High Court has recently passed an order in the matter of ***EMD MILLIPORE CORPORATION (Appellant) vs. ASSISTANT CONTROLLER OF PATENTS AND DESIGNS*** **(Respondent).** The order examined and clarified whether the invention claimed in Indian Patent Application titled as *"Devices and Methods for Infrared (IR) Based Quantitation of Biomolecules"* is eligible to be barred under section 3(i) of the Indian Patent Act, considering that the invention is related to the diagnostic method.

BACKGROUND OF THE CASE:

The Appellant filed the Indian patent application as a convention application claiming priority from a U.S. Patent Application No. 61/457,434. During prosecution the Appellant amended the claims and presented a final set of 14 claims. First examination report (hereinafter referred as "FER") was issued by the Respondent raising objection under non-patentability under section 3(i) of the Act. To overcome the objection, the Appellant filed response to the FER along with the supporting documents and amended claims. Unconvinced by the response, the Respondent issued a hearing notice maintaining the objection. The hearing was held, subsequently the Appellant submitted their Written Submission along with the amended claims and supporting documents proving patentability. Corresponding to which the Respondent passed the impugned order rejecting the present patent application as non-patentable under section 3(i) of the Act.

CONTENTIONS BY THE APPELLANT:

The Appellant stated that the present patent application uses novel and inventive method, which employs a sample holder using an infrared absorption mechanism and that the corresponding patent application has been granted in several other jurisdictions including United States of America, South Korea and Europe, concluding the invention methods as technical and not diagnostic. The Appellant contended that the Respondent had incorrectly passed the impugned order. The Appellant made the following key submissions:

1. Placing reliance on the decision of Enlarged Board of the EPO Appeal in **Case Number G 0001/04,** the Appellant stated that the method disclosed in present patent application does not involve the steps of identifying symptoms, attributing deviations to clinical conditions, or any step of medical decision-making-essential elements of "diagnostic method" under EPO jurisprudence.

2. The present patent application can be applied to a broad spectrum of the possible specimen to test by the claimed method, the samples could be blood, food, cosmetics, sewage, fuels, water and etc., making the subject patent a general analytical method and not restricted to a clinical diagnosis.

3. Further, the method of a sample holder using an infrared absorption mechanism illustrated in the present patent application has been cleared for novelty and inventive step by the Respondent.

4. Highlighting that the present patent application having infrared method has cleared the novelty and inventive step, and as broad spectrum of possible specimens that can be tested by the claimed method the claimed method should not be hit by section 3(i) of the Act and therefore the subject patent must proceed towards grant.

5. Such impugned order would be termed as an injustice, as the corresponding patent application has been granted in several other parts of the world.

CONTENTIONS BY THE RESPONDENT:

The Respondent countered the Appellants submissions by emphasizing that:

1. Exclusion of diagnostic process/methods from patentability under section 3(i) is a result of the obligations under Article 27.3 of the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement. By placing reliance on the Supreme Court's decision in ***Novartis AG v. Union of India, (2013) 6 SCC 1,*** the Respondent stated that evolvement of the Indian Patent law along with the TRIPS agreement aims towards protecting and promoting public health.

2. "Screening" and "Analysis" are all interlinked and form a part of the diagnostic chain and therefore cannot be segregated.

3. Section 3(i) of the Indian Patent Act or the guidelines of the Patent Office does not make a distinction between *"in vivo"* and *"in vitro"* methods of diagnosis, several patent applications based on in vitro method have previously been rejected.

4. Further, the perspective of the EPC would be different than in India, therefore the *Case Number* G 0001/04 cannot be applied in the Indian context.

5. Also, the method and definition of sample as illustrated in claims and complete specification of the subject patent showcases the broad based application for various industries, the grant of such patent would mean grant of patent for diagnostic process/method. Therefore, the subject patent cannot be granted and must stay rejected as per section 3(i) of the Act.

SUBMISSION BY AMICUS CURIAE:

The Hon'ble Court appointed *Amicus Curiae* to assist them on this matter.

The *Ld. Amicus Curiae* noted a drafting error in section 3(i) to clearly suggest exclusion from patentability. Section 3(i) makes a clear conclusion that it's application is only limited to process claims and not product claims, and the mentioned "their product" is specifically meant to be referred to animal products. *Ld. Amicus Curiae* stated that in the Madras High Court held after discussing the opinion of the Enlarged Board of Appeal in Case Number G 0001/04, *"if diagnosis for treatment is made, even if the diagnosis is not definitive, then the invention would not be eligible for patent."*

The Ld. Amicus Curiae submitted that the language used in EPC and section 3(i) is different, but both the legislations exclude 'diagnostic methods' from patentability. *The Ld. Amicus Curiae* relied on the decision in ***Case Number G 0001/04,*** which defines diagnostic methods requiring all the steps, if any of the step is missing then the method cannot be termed as diagnostic method, the steps are as below:

a. The examination phase involving the collection of data;
b. The comparison of these data with standard values;
c. The finding of any significant deviation that is, symptom, during the comparison, and
d. The deductive medical/veterinary decision phase.

He further argued that if any of the diagnostic method requires follow up with the substantial steps to arrive at the treatment, then such invention cannot be excluded from patentability. Only if the diagnostic process itself results or arrives at a diagnosis for curative purposes without any previous activity then such invention would exclude from patentability.

While examining the diagnostic process, the question erupted was whether to judge the literal language of the claim or to understand the objective of the invention from the complete specification. To which he clarified if the claim construction intends use of the process or method for treatment of animals or human beings by the medical practitioner, then the patent would be excluded from patentability or else it will be proceeded for grant.

COURT'S ANALYSIS:

The Hon'ble Delhi High Court considered all the documents and submissions made by the Appellant, Respondent and *Ld. Amicus Curiae.*

1. Limitations of Section 3(I):

The Hon'ble Court states that even if the invention discloses a product, method or process giving intermediate findings of diagnostic relevance, such patent application would not be excluded from patentability. Exclusion specifically covers method of treatment involving surgery, therapy and diagnosis, and not tools, non-surgical and non-therapeutic involved in the noted procedures. Also, exclusion of "diagnostic method" from patentability is meant to give adequate freedom to the medical practitioners to firstly diagnose and then provide necessary treatment to humans or animals. Section 3(i) does not exclude product or technical analytical methods that merely could be used in medical settings.

As per Indian Patent Act, if the patent applications are novel, inventive under Section 2(1)(j) and 2(1)(ja) of the Act and are capable of industrial application then both product or new process are patentable, irrespective whether they are in vivo

or in vitro. On the other hand, the processes and methods for diagnostic purpose or are therapeutic in nature, used by the medical practitioners which can be easily passed on to other medical practitioners or colleagues are not patented, as they cannot monopolize the implementation of these processes and methods or prevent their usage.

2. Nature of the Subject Patent Application:

The Hon'ble Court held that the subject patent application is a technical method to enhance efficiency and reliability of IR spectroscopy. The illustrated process is applicable to a wide range of samples including human plasma, food, cosmetics, water, sewage, and fuels. The core of the subject invention is to improve efficiency and reliability of quantitative analysis using infra-red (IR) spectroscopy by reducing time and avoiding repeated generation of calibration curve. The Hon'ble Court examines the nature of the claimed process, its technical character and the context of its application. The subject patent application aims protection for a technical method for enhancing efficiency of IR spectroscopic analysis performed in vitro on a removed sample, rather than aiming a process for diagnosing a disease or interpreting medical conditions.

The Hon'ble Court noted that the subject invention does not require or entail any clinical decision making or medical judgement based on the patients data and therefore the subject invention is clearly a technical innovation and such in-vitro analytical method cannot be excluded from patentability under section 3(i) of the Act.

The Hon'ble Court also pointed out that the subject patent application has already been granted in Europe where similar exclusions already exist under Article 53(c) of the EPC, 2000.

Summarizing all the above submissions, the Hon'ble Court rejected the Respondents objection of excluding the subject patent application under section 3(i) of the Act and is eligible for grant as it satisfies the requirements of Sections 2(1)(j) and 2(1)(ja) of the Act.

3. Claim Amendments Under Section 59 at the appellate stage:

The Hon'ble Court analyses the Respondents objection under section 59 and states that Section 59 prohibits amendments of claims when any new matter is introduced or results in broadening of the scope of the claims compared to what was originally filed in the Complete Specification.

The Hon'ble Court observed that the original claims included two independent method claims along with product claims. And the amended claims include a single independent method claim, technically narrowing the claim structure. One of the key addition in the amended claim 1 was the limitation requiring that the infrared beam diameter be equal to or larger than the hydrophilic region, which was already present as a preferred embodiment in the Complete specification.

Since the amendment does not include any new matter and has just structured the claims with greater clarity and functional specificity, the requirements of Section 59 of the Act stand duly satisfied.

The Hon'ble Court concluded by setting aside the impugned order and allowing the appeal, and ordered for completion of necessary formalities and for grant of patent to the Appellant.

CONCLUSION:

The judgment clarifies that the exclusion under Section 3(i) is limited to true clinical diagnostic methods that involve steps of medical judgment or diagnosis performed on the human or animal body. The Court clarified that in-vitro analytical or measurement methods, even when carried out on biological samples, do not fall within this exclusion unless they constitute a diagnostic process.

The Court emphasized that Section 3(i) applies only to methods that directly perform or lead to a diagnosis of a disease or disorder, involving clinical correlation or medical decision-making. This sets a precedent for biotech / medical-device / diagnostic-tool applications and rigid refusal solely on section 3(i) grounds for in-vitro, non-clinical processes may no longer be automatic.

The decision also confirms that amendments at the appellate stage (if within original disclosure) are acceptable under section 59 important for strategic claim amendments during appeals.

The ruling emphasizes the need for a nuanced, “purpose and context-based” approach in applying section 3(i), rather than a blanket exclusion of all diagnostic / biological-sample related methods.

DUXLEGIS CELEBRATES DIVYENDU'S APPOINTMENT TO THE AIPLA ASIA PACIFIC COMMITTEE

We are pleased to share that Divyendu Verma, Managing Partner at DuxLegis & Global Head of Patents & Designs Dept at Audiri Vox, has been appointed as a Vice Chair of the AIPLA Asia Pacific Committee for the 2025–2027 term.

This appointment reflects Divyendu's sustained engagement with international IP developments and his contributions to strengthening cooperation between the United States and the Asia-Pacific region. In his new role, he will work closely with committee leadership and members to support AIPLA's mission of advancing high standards of intellectual property law, policy, and practice globally.

DuxLegis congratulates Divyendu on this recognition and looks forward to the valuable insights and global perspectives he will bring to the committee during his tenure.

AIPLA: The American Intellectual Property Law Association (AIPLA) is a leading professional organization dedicated to the education, advocacy, and advancement of intellectual property law. Representing IP practitioners, in-house counsel, academics, and stakeholders worldwide, AIPLA plays a significant role in shaping IP policy, fostering international cooperation, and supporting professional excellence across all areas of IP practice.

DUXLEGIS AT THE AIPLA ANNUAL MEETING 2025, WASHINGTON D.C.

DuxLegis was privileged to take part in the AIPLA Annual Meeting 2025, held from October 30 to November 1 in Washington, D.C. The event brought together intellectual property professionals, policy leaders, and innovators from around the world to exchange views on the future direction of IP law.

The meeting featured an engaging agenda with plenary sessions, committee meetings, policy dialogues, and focused tracks on patents, trademarks, designs, copyright, and the evolving intersection of artificial intelligence and IP frameworks.

First Time Chairing the AIPLA Asia Pacific Committee Meeting: This year was a notable milestone for Divyendu Verma, Managing Partner at DuxLegis, who chaired the AIPLA Asia Pacific Committee (APC) meeting for the first time. Recently appointed as Vice Chair for the 2025–2027 term, Divyendu led discussions on:

a) Strengthening collaboration with IP offices and stakeholders across the Asia-Pacific region.

b) Encouraging bilateral engagement and knowledge sharing between U.S. and Asia-Pacific practitioners.

c) Tracking policy updates and opportunities emerging from new technology landscapes.

d) Outlining committee initiatives for the upcoming AIPLA Delegation Trip to Taiwan and India in 2026 and Annual Meeting in DC.

The session drew strong participation from attorneys and professionals across the region, further solidifying the committee's role as a platform connecting U.S. and Asia-Pacific IP communities.

Highlights from the Annual Meeting:

Policy and Legislative Updates: Sessions explored ongoing U.S. patent reform efforts, global copyright initiatives, and regulatory developments around AI-driven innovation.

Global Engagement: Delegates from Asia, Europe, the Middle East, and Latin America shared experiences on enforcement challenges, cross-border protection, and harmonization of IP policies.

AI and Innovation Panels: Experts examined issues such as AI inventorship, data governance, and the broader implications of generative technologies for creators and businesses.

Networking and Collaboration: The event offered valuable opportunities to connect with peers, strengthen existing partnerships, and explore potential areas of cooperation with international stakeholders.

AIPLA's Leadership in Global IP Dialogue

The AIPLA Annual Meeting once again reaffirmed its stature as a leading platform for advancing thought leadership in intellectual property law. For DuxLegis, active participation in the event - and leadership within the Asia Pacific Committee - reflects an ongoing commitment to engaging in global IP discussions and contributing to the continued evolution of laws and practices worldwide.

DuxLegis Attorneys

IP AY ATTENTION
Gateway to IP World

INNOVATION MAHAKUMB 2025: STRENGTHENING INNOVATION JOURNEY WITH IP INSIGHT

DuxLegis Attorneys participated in ***Innovation Mahakumbh 2025,*** hosted at the **SNDT** Campus in Mumbai. The event brought together innovators, academicians, startups, and policy leaders, creating a vibrant platform for dialogue, collaboration, and knowledge exchange.

The exhibition featured a diverse range of innovations and early-stage ventures presenting solutions in technology, sustainability, design, education, and more. Engaging with these budding innovators provided meaningful insights into the real-world challenges they face particularly in safeguarding their ideas and preparing for scalable growth. As an IP-focused firm, we are committed to helping such innovators strengthen their journeys by offering structured guidance on patents, trademarks, designs, and overall IP strategy.

Throughout the day, we had the opportunity to connect with several distinguished attendees from academia and government, including the Vice Chancellor of SNDT University, the Vice Chancellor of Homi Bhabha University, the Vice Chancellor of Mumbai University, and the Chief Secretary to the Central Government.
These interactions highlighted the growing importance of strong intellectual property frameworks in shaping India's innovation landscape and emphasized how legal and IP support is becoming integral to national progress.

The interactions at Innovation Mahakumbh 2025 were energizing combining creative thinking with practical IP insights. We remain dedicated to empowering innovators and entrepreneurs by helping them protect, manage, and scale what they create.

Proud to be part of India's evolving innovation ecosystem, we look forward to continuing our contribution to the nation's creative and entrepreneurial future.

IP SNIPPETS:

PATENT CASES:

SHROFF GEETA (Appellant) vs ASST. CONTROLLER OF PATENTS AND DESIGN (Respondents)

CASE NO.: IPDPTA/88/2023
DECIDED ON: 17th November, 2025

The appellant filed an appeal against the respondent for rejecting their patent application for unethical destruction of human embryos under section 3(b) of the Patent Act. The appellant contended that the impugned order violates the principle of natural justice and clarified that the subject invention do not necessarily destroy embryos. The respondent countered that the claims of the subject patent explicitly involves extracting stem cells from 2–7-day old human embryos an act that is inherently destructive and unethical.

The Hon'ble Calcutta High Court examined the subject patent along with section 3(b) and stated that if the invention disrupts public order or morality or cause serious prejudice to life or health, then such invention cannot be patented. And the present invention involves necessary destructive use of embryos for commercial purposes which is prohibited and inconsistent with national stem cell guidelines. The Hon'ble Court concluded by maintaining the respondent's impugned order and dismissed the present appeal affirming that the invention is non-patentable under section 3(b) of the Patent Act.

TRANS UNION, LLC (Appellant) vs 1. THE CONTROLLER GENERAL OF PATENTS, DESIGNS & TRADEMARKS AND 2. ASSISTANT CONTROLLER OF PATENTS (Respondents)

CASE NO.: (T)CMA(PT) No.159 of 2023
DECIDED ON: 05th November, 2025

The appellant filed an appeal against the respondent for rejecting their patent application solely on the ground of non-patentability under section 3(k) as a *computer programme per se*. The appellant argued that the subject invention includes technical effect by normalizing unstructured data, reducing search time and enabling accurate credit risk. The appellant further stated that the subject invention is not a mere algorithm and must be assessed for technical contribution or effect. The Respondent countered that the claims of the subject invention lacks structural or hardware features and it is just an algorithm implemented software, therefore cannot be patented under section 3(k) of the Patent Act.

The Hon'ble Madras High Court noted that the subject invention provides technical contribution by performing technical steps using processor, search and matching engines. The Hon'ble Court stated that the respondent has wrongfully rejected the subject patent under section 3(k), as it goes beyond a *'computer programme per se'*. The Hon'ble Court by setting aside the impugned order and remanded the matter back for reconsideration.

AB INITIO TECHNOLOGY LLC and A DELAWARE LIMITED LIABILITY COMPANY (Appellant) Vs 1. THE CONTROLLER GENERAL OF PATENTS & DESIGNS AND 2. THE CONTROLLER OF PATENTS (Respondents)

CASE NO.: (T)CMA(PT) No.58 of 2023
DECIDED ON: 04th November, 2025

In the present appeal the appellant challenged the impugned order passed by the respondent for rejecting the appellant's patent application on the ground of lack of novelty and inventive step under section 2(1)(j) and for non-patentability under section 3(k).

The appellant argued that the claimed invention provides a technical effect for data-lineage tracing, and the database management system involving technical considerations and optimal execution of structured queries is not excluded from patentability by section 3(k). The appellant further argued that the claimed invention also clearly differs from the cited prior art. The respondent countered that the claims were software based lacking technical contribution and were anticipated by the cited prior art.

The Hon'ble Madras High Court observed the following matter and performed detailed analysis of section 3(k) referring to Indian, UK and EPO jurisprudence. The Hon'ble Court stated that computer related invention are patentable if it deliver technical contribution even without any hardware. The Hon'ble Court noted that the claimed invention provides technical contribution by resulting in a data relationship diagram representing data lineage consisting of graph and input and output field. Also, the claimed invention satisfies the novelty and inventive step requirements under section 2 (1)(j). The Hon'ble Court concluded by setting aside the impugned order and allowing the appeal, directing the appellant's patent application to proceed towards grant.

TRADEMARK CASES

PAS AGRO FOODS (Petitioner) vs KRBL LIMITED & ORS. (Respondents)

CASE NO : SP.JC NO. 2 OF 2025
DECIDED ON: 27th October 2025

In the present suit the petitioner filed a writ petition under Section 57 of the Trade Marks Act, 1999 seeking rectification and cancellation of the respondent's registered trademark **"INDIA GATE"** used for rice and allied food products.

The Petitioner contended that the mark was generic and descriptive of Indian-origin rice and had been wrongfully monopolized by the Respondent. It was further argued that the registration had lost distinctiveness due to widespread trade usage and that smaller exporters were facing hardship because the Respondent was enforcing the mark by initiating infringement actions before the Hon'ble Delhi High Court.

After hearing the matter, the Hon'ble Kerala High Court held that the writ petition was not maintainable on grounds of territorial jurisdiction. The Hon'ble Court observed that under Section 57 read with Section 125 of the Trade Marks Act, rectification petitions must be filed before the High Court exercising jurisdiction over the Trade Marks Registry where the impugned mark stands registered. Since **"INDIA GATE"** was registered at the Delhi Trade Marks Registry and infringement proceedings concerning the same mark were already pending before The Hon'ble Delhi High Court, only that Court had jurisdiction to entertain the rectification plea. The Hon'ble Court further noted that no validity challenge was pending in the Delhi proceedings, rendering the writ premature.

KBM FOODS PRIVATE LIMITED (Plaintiff) vs AJAY YADAV TRADING (Defendant)

CASE NO.: CS(COMM) 1141/2025
DECIDED ON: 17th October 2025

The plaintiff instituted the present commercial suit against defendant alleging infringement and passing off of its long-established spice trademarks, including **"KBM "** the associated logo, and its device mark **"GAI CHAAP"** (Cow).

The plaintiff contended that it has used these marks extensively since 1969 and that the defendant had dishonestly adopted deceptively similar marks such as **"KDM", "GAU CHAAP"**, and a cow device, thereby diluting the Plaintiff's goodwill and misleading consumers. The plaintiff sought an urgent ex-parte ad-interim injunction along with the appointment of a Local Commissioner, expressing concern that the defendant may conceal or dispose of infringing stock. The defendant did not appear.

The Hon'ble Delhi High Court observed that the defendant's adoption of the impugned marks appeared dishonest and intended to ride upon the plaintiff's established reputation. The Hon'ble Court granted the plaintiff exemption from mandatory pre-institution mediation under Section 12A of the Commercial Courts Act and permitted exemption from advance service due to the urgency of the relief sought. The identities of the parties were also allowed to be masked until the Local Commissioner's report was filed, and notice was issued on the application for interim injunction.

GRASIM INDUSTRIES LIMITED & ANR. (Plaintiffs) vs MRIDULA KUMARI TRADING AS M/S SUPERIOR BIRLA ROCK AND CO. (Defendant)

CASE NO.: CS(COMM)19/2025
DECIDED ON: 17th October 2025

The plaintiffs filed the present suit alleging that the defendant was infringing and passing off their well-known trademarks by using deceptively similar marks on wall putty and cement products.

The plaintiffs contended that the defendant was marketing products under names such as **"SUPERIOR BIRLA ROCK"** and **"BIRLA SHINE"**, thereby exploiting the Plaintiffs' reputed marks, including **"BIRLA", "BIRLA WHITE", "ULTRATECH"**, and **"OPUS"**, along with their distinctive trade dress and copyrighted packaging. It was submitted that such unauthorised use was likely to mislead consumers and dilute the plaintiffs' longstanding goodwill associated with the Aditya Birla Group. During the proceedings, both parties submitted a joint compromise under Order XXIII Rule 3 of the CPC. Upon reviewing the settlement terms, The Hon'ble Delhi High Court recorded that the defendant had unequivocally acknowledged the plaintiffs' exclusive rights in their trademarks and trade dress. The Hon'ble Court passed a decree of permanent injunction restraining the defendant from using the impugned marks and accepted the defendant's undertaking to immediately cease all infringing activities and to change her trading name, thereby bringing the dispute to an end.

ESME CONSUMERS PVT LTD (Plaintiff) vs SURAJ COLLECTION AND ANR (Defendants)

CASE NO.: CS(COMM) 1142/2025
DECIDED ON: 17th October 2025

In the present case, the plaintiff filed a suit seeking a permanent injunction restraining the defendants from infringing its registered trademark, trade dress, and packaging associated with its cosmetic products sold under the marks Blue Heaven / Blue Heaven BLUE HEAVEN", and "GET BOLD",

related label and bottle designs. The plaintiff contended that they had been manufacturing and selling cosmetics under these marks since 1972 and owned multiple trademark and copyright registrations. It was contended that the defendants had dishonestly adopted identical and deceptively similar marks and trade dress such as "



and **COLOUR FASHION GET BOLD"** for eyeliners and other cosmetics, imitating the plaintiff's colour scheme, label, and bottle design. The plaintiff further argued that the defendants' goods were of inferior and unregulated quality, thereby endangering consumers and harming the plaintiff's longstanding market reputation. The defendants did not appear before the Hon'ble Court.

The Hon'ble Delhi High Court observed that the plaintiff had demonstrated long, continuous, and well-recognized use of its marks and distinctive trade dress in the cosmetics industry. The Hon'ble High Court held that the defendants' adoption of nearly identical marks, labels, and packaging was dishonest and intended to mislead consumers by riding upon the plaintiff's established goodwill. The Hon'ble High Court accordingly granted an ex-parte ad-interim injunction restraining the Defendants, their agents, and all persons acting on their behalf from manufacturing, selling, or promoting any cosmetic products bearing the impugned marks or any packaging deceptively similar to the plaintiff's trademarks and trade dress.

WOW MOMO FOODS PRIVATE LIMITED (Appellant) vs WOW BURGER & ANR. (Respondents)

CASE NO.: FAO(OS) (COMM) 143/2025 & CM APPL. 59063/2025
DECIDED ON: 16th October 2025

WOW! momo WOW BURGER

In the following matter the Appellant filed a suit against the Respondents for infringement and passing off, alleging that the Respondents were operating burger outlets using the branding "**WOW BURGER**", which was deceptively similar to the appellant registered marks "**WOW! MOMO**" and "**WOW! CHINA**".

The Appellant contended that the respondents had copied its colour scheme, trade dress, and overall visual identity, thereby misleading consumers into believing an association with the appellant's chain of quick-service restaurants. The appellant argued that its "**WOW!**"-formative marks had acquired substantial goodwill since 2008. The respondents did not appear before the Hon'ble Delhi High Court despite repeated service.

Upon examining the evidence, the Hon'ble Delhi High Court observed that "**WOW BURGER**" and "**WOW! MOMO**" were visually and phonetically similar, and their use for identical food services created a likelihood of consumer confusion. The Hon'ble Court restrained the respondent from using "**WOW BURGER**" or any mark deceptively similar to the appellant's marks "**WOW! MOMO**" and "**WOW! CHINA**" and directed removal of all infringing branding from physical outlets, online platforms, and delivery apps. The Hon'ble Court concluded that the appellant was entitled to ex-parte protection to prevent misuse of its established brand identity.

CROCS INC & ANR. (Plaintiffs) vs SAGAR DOIJODE TRADING AS QUESTSOLE & ORS. (Defendants)

CASE NO.: CS(COMM) 1125/2025
DECIDED ON: 16th October 2025

crocs™ QUEST SOLE

In the present case, the plaintiffs filed a suit against the defendants seeking a permanent injunction for infringement of their clog footwear and decorative charms known as "**JIBBITZ**".

The Plaintiffs contended that the defendants were manufacturing and selling identical or deceptively similar products under marks such as "**CROCKS**", "**CROC**", and "**JIBBIT**", thereby infringing plaintiffs' statutory rights and passing off counterfeit goods as genuine plaintiff products. The plaintiffs further argued that the imitation extended to the shape configuration, geometric design patterns, and overall packaging, demonstrating mala fide intent to exploit the plaintiffs' goodwill. The defendants did not appear before the Hon'ble Delhi High Court.

The Hon'ble Delhi High Court observed that the plaintiffs had established a strong *prima facie* case of deliberate and large-scale imitation amounting to infringement across trademarks, designs, and trade dress, in addition to passing off. The Hon'ble Delhi Court granted an *ex-parte ad-interim injunction* restraining the defendants from manufacturing, advertising, or selling footwear and accessories bearing the plaintiffs' registered marks, designs, or any deceptively similar trade dress, and directed removal of infringing listings from online marketplaces and social media platforms.

HERO INVESTCORP PVT LTD AND ANR. (Plaintiff) vs SAKLIN ALIAS PRINCE (Defendant)

CASE NO.: CS(COMM) 1095/2025
DECIDED ON: 10th October 2025

DESIGN REGISTRATION NO. 311300
FRONT VIEW

and Hero

In the present case, the plaintiff filed a suit against the defendant for manufacturing and selling counterfeit engine oil bearing plaintiffs 'registered trademark" Hero " and copying the registered bottle designs covered under Design Nos. 311300 and 311301.

The plaintiff contended that large-scale counterfeiting was taking place in Delhi and that urgent intervention was necessary to prevent further deception of consumers and dilution of its goodwill. The plaintiff also sought exemption from pre-litigation mediation and requested the appointment of a Local Commissioner to seize counterfeit material. The Defendant did not appear before the Hon'ble Court. Upon reviewing the material, The Hon'ble Delhi High Court observed that the impugned products reproduced the plaintiffs' mark **"HERO"** and bottle shapes, establishing a clear prima facie case of trademark infringement, design infringement, and passing off.

The Hon'ble Delhi High Court restrained the defendant from manufacturing or selling any goods bearing the mark **"HERO"** or using deceptively similar packaging and appointed a Local Commissioner to inspect the premises, seize counterfeit stock, prepare inventory, and take photographs with police assistance. The Hon'ble Delhi High Court therefore protected the plaintiffs' trademark and registered design rights through an *ex-parte ad-interim injunction.*

RECKITT AND COLMAN (OVERSEAS) HYGIENE HOME LIMITED & ORS. (Plaintiffs) vs ASHOK KUMAR(S)/JOHN DOES & ORS. (Defendants)

CASE NO.: CS(COMM) 1079/2025
DECIDED ON: 9th October 2025

The Plaintiffs filed present commercial suit seeking an urgent *ex parte ad-interim injunction* to restrain the defendants from infringing and passing off their well-known trademarks, including

"HARPIC/  **", "DETTOL", "LIZOL",** and **"COLIN".** The plaintiffs contended that these brands enjoy decades of continuous use, substantial goodwill, and distinctive trade dress, including registered bottle-shape marks. It was submitted that the plaintiffs are market leaders, with **"HARPIC"** toilet cleaner holding nearly 86.9% market share, and that large-scale infringement would cause irreparable loss and deception among consumers.

The Hon'ble Delhi High Court observed that the suit clearly required urgent interim protection and that any delay caused by pre-institution mediation would defeat the purpose of the relief sought. The Hon'ble Court also permitted the suit to be listed without effecting advance service on the defendants, acknowledging the request for an *ex parte injunction* and the appointment of Local Commissioners. Consequently, the plaint was registered as a commercial suit, summons was issued to the defendants, and the matter was directed to be listed before the Joint Registrar on November 28, 2025, for completion of service and pleadings.

COPYRIGHT CASES

EBC PUBLISHING (P) LTD & ANR. (Plaintiffs) vs RUPA PUBLICATIONS INDIA PRIVATE LIMITED (Defendant)

CASE NO.: CS(COMM) 1034/2025
DECIDED ON: 6th November 2025

The Plaintiffs brought the present suit alleging that the Defendant had adopted an almost identical red-and-black trade dress for its competing edition of the "Pocket Constitution Of India"

resulting in passing off and dilution of the Plaintiffs' well-established publication.

The Plaintiffs submitted that they had been using this distinctive layout for years and had already secured an ex-parte interim injunction. The Defendant sought modification of that order, asserting that its design was independently conceived and arguing that the Plaintiffs had not disclosed all material facts when securing the initial relief.

After hearing the parties, the Hon'ble Delhi High Court noted their willingness to pursue an amicable resolution and referred the dispute to the Delhi High Court Mediation and Conciliation Centre. The Hon'ble Court further directed that the Defendant's application for vacating the injunction be treated as its reply to the Plaintiff's injunction application, and that the Plaintiff's replication serve as a rejoinder. The parties were instructed to complete pleadings and admission-denial formalities before the next hearing scheduled for 17 December 2025, while mediation proceeds simultaneously.

CAPITAL FOODS PRIVATE LIMITED (Plaintiff) vs RAVI PICKLES AND SPICES INDIA PRIVATE LIMITED & ANR. (Defendants)

CASE NO.: CS(COMM) 1173/2025
DECIDED ON: 4th November 2025

The Plaintiff initiated the present suit alleging that the Defendants were manufacturing and selling identical food products under the mark **"SZECHWAN CHUTNEY"**, which was deceptively similar to the Plaintiff's registered trademark **"SCHEZWAN CHUTNEY"**.

The Plaintiff submitted that it had conceived and adopted the mark in 2012 and had built substantial reputation and goodwill, supported by revenues of over ₹186 crore and advertising expenditure of ₹15 crore in FY 2024–25. Despite issuance of a legal notice, the Defendants allegedly continued to use similar marks, packaging, and trade dress, resulting in clear consumer confusion. The Defendants did not appear before the Hon'ble Delhi High Court. Upon examining the material, the Hon'ble Court observed that the matter reflected a "triple identity" scenario—identical marks used for identical products through identical trade channels, leaving little doubt of infringement and passing off. The Hon'ble Court found a strong prima facie case and concluded that the balance of convenience favoured the Plaintiff. Accordingly, The Hon'ble Court granted an ex-parte ad-interim injunction restraining the Defendants from using **"SZECHWAN CHUTNEY"** or any deceptively similar mark.

MS. SIDDIQUA BEGUM KHAN (Plaintiff) vs UNION OF INDIA AND OTHERS (Defendants)

CASE NO.: WP 42708 of 2025
DECIDED ON: 4th November 2025

The Petitioner approached The Hon'ble Court seeking to restrain the release of the film **"HAQ"** by the Defendants, alleging that it dramatized and sensationalized the personal life of her late mother, Smt. Shah Bano, without consent. The Petitioner contended that the film contained fabricated content, violated posthumous dignity, and misrepresented events not found in any public record. The defendants argued that the film was a fictional adaptation inspired by publicly available sources, including the Shah Bano judgment and the book **"Bano: Bharat Ki Beti".** They further submitted that the film carried a clear disclaimer, was certified by the CBFC, and did not claim to be an authentic biographical portrayal.

After hearing the matter, the Hon'ble Madhya Pradesh High Court held that the right to privacy and reputation is not heritable and extinguishes upon a person's death. The Hon'ble Court observed that the film was presented as dramatized fiction with an explicit disclaimer and that creative liberty permits fictionalization so long as it does not purport to be an authoritative biography. The Hon'ble Court also noted that CBFC certification carries a presumption of validity and that the Petitioner had an effective alternative remedy under Section 5E of the Cinematograph Act, which she failed to pursue. Finding unexplained delay, insufficient pleadings, and absence of any enforceable legal right, The Hon'ble Court dismissed the petition.

SUPARSHVA SWABS INDIA (Plaintiff) vs AGN INTERNATIONAL & ORS. (Defendants)

CASE NO.: FAO (COMM) 253/2023
DECIDED ON: 3rd November 2025

The Plaintiff initiated the present action alleging that the Defendants were manufacturing and selling cotton buds and hygiene products using the identical mark **"TULIP"**, thereby infringing the Plaintiff's registered trademark.

The Plaintiff asserted long-standing use and market recognition in the healthcare and personal care segment and argued that the Defendants' adoption of the identical mark was dishonest and intended to exploit the Plaintiff's goodwill. The Defendants did not contest the proceedings. Upon consideration, the Hon'ble Delhi High Court held that the Defendants' adoption of an identical mark for identical goods established a clear case of infringement and passing off under the Trade Marks Act, 1999. The Hon'ble Court found that the Plaintiff had demonstrated a strong prima facie case and that continued misuse of the mark would cause irreparable harm. Consequently, The Hon'ble Court granted an ex-parte ad-interim injunction restraining the Defendants from using **"TULIP"** or any deceptively similar mark.

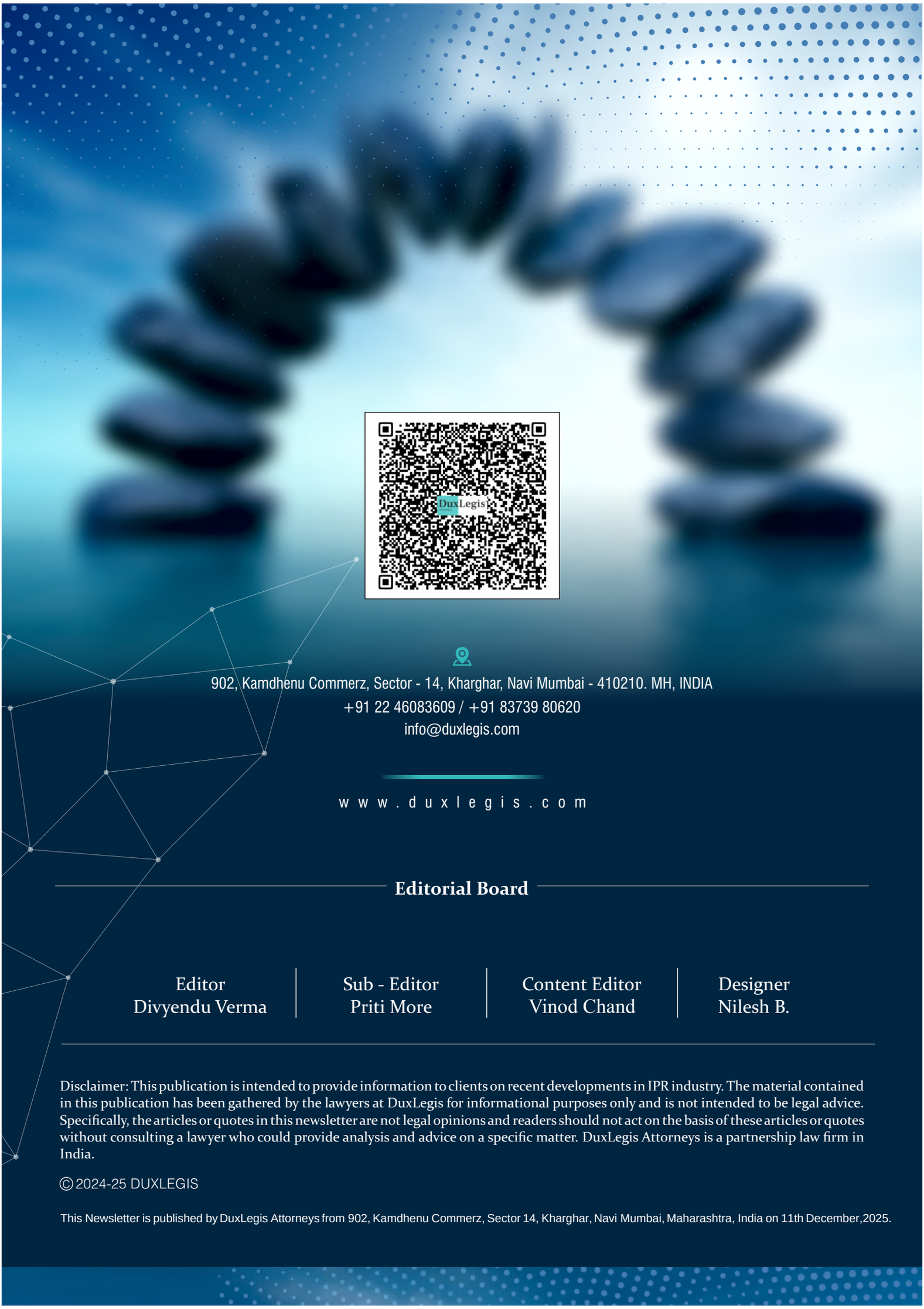
EVEREST ENTERTAINMENT LLP (Plaintiff) vs MAHESH VAMAN MANJREKAR AND ORS. (Defendant)

CASE NO.: COMMERCIAL IP L. NO. 32984 OF 2025
DECIDED ON.: 24th October 2025

The Plaintiff initiated the present proceedings seeking an interim injunction to restrain the defendants from releasing their upcoming Marathi film titled **"PUNHA SHIVAJI RAJE BHOSALE".** The Plaintiff, producer of the 2009 film **"MI SHIVAJI RAJE BHOSALE BOLTOY",** contended that the defendants' film was a blatant and unauthorized sequel amounting to copyright infringement of the plaintiff's script, title, and promotional material. The plaintiff further argued

that the defendants' adoption of a nearly identical title and similar thematic elements was intended to mislead viewers and ride upon the goodwill of their earlier film, in which they claimed exclusive derivative rights. The Defendants opposed the relief. After hearing the parties, The Hon'ble Bombay High Court declined to grant interim relief and allowed the release of the defendants' film.

The Hon'ble Bombay High Court observed that the plaintiff had approached the Hon'ble Court with gross and unexplained delay despite knowing of the project since April 2025. The Hon'ble Court further held that the name of Chhatrapati Shivaji Maharaj, whether in full or in any derivative expression cannot be monopolized, as historical figures belong to the public domain. The Hon'ble Court also found no prima facie case of substantial copyright infringement, noting that the two films portrayed distinct themes and that the Marathi expressions relied upon by the plaintiff were common phrases not entitled to copyright protection.



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

www.duxlegis.com

Editorial Board

This Newsletter is published by DuxLegis Attorneys from 902, Kamdhenu Commerz, Sector 14, Kharghar, Navi Mumbai, Maharashtra, India on 11th December,2025.