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IS INDIAN LAW ADEQUATELY EQUIPPED FOR ADDRESSING UNAUTHORIZED USE OF ARTISTIC WORK BY AI?



- By Ananya Sinha

INTRODUCTION

The emergence of innovative technology has disrupted the online industry. Alongside the positive things, there are also plenty of reasons to be cautious of what we put online. One of the reason is deep-fakes. *Deepfakes are audio and video manipulations that are created using algorithms backed by Artificial Intelligence. Deepfake technology uses artificial intelligence techniques to create realistic images & videos of anyone.* These lifelike imitations can often be mistaken as real, and with advancements in technology, it has only gotten better. The technology was initially used to create specific movie scenes like creating resurrection of Paul Walker for *Fast & Furious 7*. In 2020 Indian legislative assembly elections **politician Manoj Tiwari's** had delivered a speech in English, which was further manipulated to be disseminated in the 'Haryanvi' dialect. Despite having vast potential to achieve greatness, yet deepfakes are largely deployed to harass women and celebrities, as witnessed in case of actor **Rashmika Mandanna**, were the actor's face was unwittingly superimposed on the body of a British Indian influencer.



HOW ARE DEEPFAKES CREATED AND WHAT GREAT RISK IT BRINGS TO THE TABLE?

Deepfakes are a type of synthetic media created using AI technologies, particularly Generative Adversarial Networks (GANs). GANs involve two neural networks: a generator that creates synthetic content like images, videos, or audio, and a discriminator that checks these outputs against a dataset of real data to determine their authenticity. Deepfakes can take several procedures, such as face swaps, attribute edits, or face re-enactments, allowing for large manipulation in digital media. Even though the term "deepfake" refers to videos, it also involve modified images and audio. This technology's exceptional quality is its high degree of realism, often making it challenging to classify deepfakes from genuine content. The consequences of deepfakes are seriously varying from privacy violations and reputational harm to political misinformation and other forms of deception.

The National Stock Exchange (NSE) and the Bombay Stock Exchange (BSE) issued warning notices after deep-fake videos dishonestly showing their CEOs giving stock/investment advice online. In politics, deepfake videos caused confusion during the Lok Sabha elections, with a fake video of Bollywood actor Ranveer Singh criticizing a political party going viral, and a deepfake of Aamir Khan appearing to support a specific party. These incidents highlight technology's potential to spread misinformation, influence public opinion, and impact democratic processes.

ARE OUR LAWS REALLY WELL-EQUIPPED?

MPS Rajani Ashokrao Patil and Ranjeet Ranjan enquired about the government's reaction to the recommendations outlined in the 161st report of the Parliamentary Standing Committee on the creation of a separate category of rights for AI and related innovations. To this the Union Ministry of Commerce and Industry Shri Som Prakash said,

India's existing Intellectual Property Rights regime is "well-equipped to protect AI-generates works" and so does not require a separate category of rights.

- POSTED ON: 09 FEB 2024 8:55PM BY PIB DELHI

He also said, "Intellectual Property Rights including Copyright and Related rights provide exclusive rights to the right owner who are legal persons for a set duration. These rights allow for the work or creations or innovation to be protected and enable collection of royalties through licensing. For a right to be granted, the owner is required to meet the criteria specified under the law. India being the member of all the major international conventions and agreements for the

protection of intellectual property rights grants adequate protection of rights for works created by legal persons through copyright law and protects inventions through the patent system. Therefore, there is no requirement to create a separate category of rights for AI and related innovations in the Indian IPR Regime. Therefore, while Artificial Intelligence (AI) and related innovations is an evolving stream of technology the current legal framework under the Patent and Copyright Act is well-equipped to protect Artificial Intelligence generated works and related innovations. He added there is presently no proposal to create any separate right related to AI-generated content."

Concern regarding the effects of generative AI material on people's copyright has grown in spite of the government's promises. Photographer Vikas Sabo, professional model Kanchan Nagar, and a business that runs the stock photo website "Images Bazaar" have launched a Public Interest Litigation (PIL). The petitioners called attention to AI platforms' unlawful use of their original creative works and called for regulations to stop this kind of abuse. They said that in addition to violating copyright, this illegal use also violates people's privacy and personality rights, especially those of women whose photos are frequently used without their knowledge. The appeal focused on the unapproved use of female models' images, which frequently results in privacy violations. The PIL asks for a number of directives, such as amending the Information Technology Rules and the Copyright Act of 1957 to combat deepfakes and AI-based impersonation cheats. Additionally, it aims to penalize the selling of AI-generated images without the consent of the artist and to prevent unregulated programs that facilitate their development. The petition also requests that a nodal officer be appointed to handle concerns about AI technologies violating copyright.

One must understand here is that all AI is based on existing data, whether that is written, audio, video or images. The capability of AI to generate anything completely on its own, even with the most exact 'prompt' is almost non-existent, that is why all AI is based on LLM (Large Learning Model). It uses, often illegally, existing written, audio, video or image content and then trains its own software to use that information to 'create' something new. The recent death of an Indian software engineer in US, who was privy to information about ChatGPT and was a whistle blower in the case is under investigation. The stakes are very high, with billions of Dollars being poured into developing AI, thus there exists a present and clear danger to all content that is original.

In January 2024, the Central Government received a letter from the Digital News Publishers Association (DNPA), an umbrella group representing news publishers, asking for copyright protection regulations against generative artificial intelligence (AI) models. In order to guarantee just pay for the use of their news material to train AI models, it advocated for modifications to the Information Technology

Rules rather than copyright laws.

OpenAI has reached a deal with Axel Springer SE to pay tens of millions of euros for the right to use its news content, including articles from Politico, Business Insider, Bild, and Die Welt, to train AI models. The three-year agreement follows ongoing tensions between news publishers and tech companies over the use of their content to build AI systems. OpenAI plans to use this content to enhance ChatGPT's responses, which will include links and attributions to the original articles. Despite this, some publishers remain wary of generative AI due to concerns over accuracy and data use. Given the growing amount of AI-generated content in our daily lives, the 161st Parliamentary Report's recommendation to **"create a separate category of rights for AI and AI-related works"** is significant. The literal wording of Section 16 of the Act, which states that "no person" shall be entitled to copyright protection except in compliance with the Act's provisions, continues to raise concerns.

The government's stance on the adequacy of India's Intellectual Property Rights (IPR) framework to address AI-generated content appears to be at odds with the growing concerns as expressed by stakeholders. On one hand, the Union Ministry of Commerce and Industry asserts that the current legal regime, encompassing the intellectual property rights, is sufficiently robust to protect AI-generated works. It has been generally seen that those who flout the law are always two steps ahead of law makers and in fact laws come into existence to prevent misuse of existing provisions of law by those who find loopholes in laws and then exploit it. Thus, those questioning the government are very much right in their approach. Governments and government officials are loath in doing any changes in existing laws as that would require them to do work! This view dismisses the need for a separate category of rights for AI innovations. On the other hand, Public Interest Litigations (PILs) and appeals from affected parties, such as photographers, models, and digital publishers, highlight significant gaps in the legal framework. These stakeholders have raised issues such as unauthorized use of copyrighted works by AI platforms, infringement of privacy and personality rights, and the exploitation of women's images without consent. Their calls for amendments to the Copyright Act and IT Rules reflect a pressing need to address these challenges in a fast-evolving technological landscape. This apparent contradiction underscores the disconnect between the government's assurances and the reality faced by creators and rights holders. Without proactive regulatory measures, the misuse of generative AI technologies could continue unabated, leaving individuals and industries vulnerable to exploitation. Balancing innovation with protection is crucial to resolving this tension.

STANCE OF INDIAN COURT'S ON ISSUE OF DEEPAKE TECHNOLOGY

The Indian Court's has taken a proactive stance on the issue of deepfake technology, by recognizing deepfakes potentially harmful consequences. Supreme Court Justice Hima Kohli recently emphasized the serious challenges posed by deepfakes, particularly in the areas of privacy invasion, the spread of misinformation, and security threats. She raised concerns about the ability of deepfakes to convincingly imitate real individuals, which amplifies their potential to deceive and harm. A pressing concern noted by Justice Kohli is the intensification of gender-based harassment through deepfakes. Such harassment, facilitated by the anonymity and speed of dissemination on online platforms, underscores the urgent need for legal and policy responses to counter these dangers effectively.

The judiciary has also demonstrated its willingness to intervene wherever necessary. The Delhi High Court, for instance, has addressed the misuse of deep-fakes and called for judicial intervention to reduce their harmful effects. Recognizing the global and borderless nature of the problem, the court suggested that the government is better positioned to create a comprehensive regulatory framework. This reflects a balanced approach, where the judiciary acknowledges its limitations and emphasizes the need for legislative action.

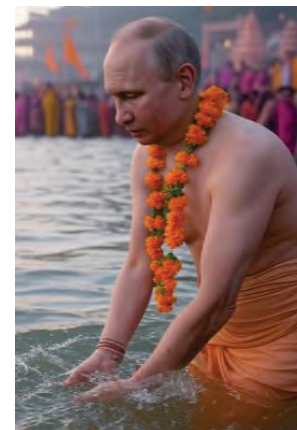
In the absence of explicit legal provisions addressing deepfakes, a Public Interest Litigation (PIL) filed in the Delhi High Court has called for strict regulations or an outright ban on AI-generated deepfake content. Proposals such as mandatory watermarks on AI-generated media have been suggested to enhance transparency and accountability. These initiatives highlight the pressing need for the legal system to evolve in response to technological advancements.

Legislative amendments that explicitly define and regulate deep-fake technology are essential to ensure accountability and protect individual rights. Additionally, collaboration between the judiciary, legislature, government, and private sectors will be critical in creating a strong framework to tackle deepfake misuse. By addressing these challenges comprehensively, India can safeguard its digital ecosystem while fostering innovation and trust.

CONCLUSION

To address the above-mentioned challenges, IP holders should consider proactive measures, such as digital watermarking and collaborating with technology platforms to identify and take down infringing content. Policymakers also need to update copyright laws to account for the unique risks posed by AI and deepfake technologies. Policy makers should make it mandatory that any content that is created using AI carries a prominent disclaimer that this content has

been created using AI and thus may not be correct. Such a disclaimer is already being carried by AI software like ChatGPT, where they write that ChatGPT responses can be wrong, and the user has to do a check to ensure the reliability of the response.



Examples of such images being posted online abound. They are all generated using AI and have been published by news portals. It is easy to fall into a trap and believe that these images are genuine. Once posted someone can edit out the captions and claim that these leaders had participated in MahaKumbh 2025, thus sending innocent viewers to believe a patently fake narrative that benefits some political party.

Deepfakes represent a double-edged sword—while they hold potential for creative and innovative uses, their misuse poses significant risks to IP holders, especially in the realm of copyright. The evolution of Indian copyright law will play a crucial role in balancing these opportunities and risks.

[1. https://pib.gov.in/PressReleasePage.aspx?PRID=2004715](https://pib.gov.in/PressReleasePage.aspx?PRID=2004715)

DIGITAL PERSONAL DATA PROTECTION DRAFT RULES, 2025



- By Krutarth Sontakke

The most anticipated notification has finally popped up after a long wait, and all data privacy enthusiasts and practitioners breathed a sigh of relief because, after 1.5 years of enactment of the DPDP Act 2023 (Digital Personal Data Protection Act, 2023), the Ministry of Electronics and Information Technology (MeitY) released the draft of the DPDP Rules on January 3, 2025 for public consultation and recommendations from the release date until February 18, 2025.



The Digital Personal Data Protection Act was passed after the years of constant deliberations and revisions, it has finally passed by both the houses and signed by the President on August 11, 2023. The Act aims to protect the personal data of an individual in the digital landscape. After the act has finally been passed, everyone was waiting for the rules to implement the act in practice. So, finally the draft of the rules has been released for the public consultation. After receiving the feedback from the public, the Ministry of Electronics and Information Technology will release the final rules.

In this digitally social era, sharing data with service providers has become increasingly risky and concerning. Our personal data can be used against us, posing a threat to our very existence. The purpose of introducing this act is to protect individuals' personal data collected by any organization or data fiduciary (*A person or entity who is collecting personal data from individual*). To achieve this, the act suggests adherence to its provisions. It also emphasizes informed consent, ensures the secrecy of data flowing through the vast digital landscape, and maintains individual privacy. The scope of this act involves the protection of individuals' digital personal data, ensuring accountability and transparency in data handling, and aligning with the global privacy benchmark set by the General Data Protection Regulation (GDPR) of the European Union (EU). The draft rules describe the specific procedures and guidelines for implementing the act. It outlines the rights and obligations of all stakeholders involved in data sharing and data protection. It will be gratifying to see personal data being managed by various stakeholders in compliance with the act.

Let's understand the key point of the rules set forth in the draft –



A) Consent Notice – Consent is the prime factor in this process. The consent of the data principal (*an individual whose data is being processed*) has the extreme significance. To obtain the consent from data principal, the data fiduciary must provide a clear, standalone, and understandable consent notice. It should be in a simple, plain language with itemised description of such personal data with a full and transparent purpose of the information necessary for obtaining informed consent for the processing of their

personal data.

B) Consent Manager – Consent Managers are briefly explained in this rule as certified interoperable platform enabling Data principals to manage their consent. It complies with assigned obligations to ensure that the data principals can easily give manage, review, and withdraw consent for data processing. The eligibility, registration, and obligations of the consent managers has introduced in this rule and in the First Schedule of the rule, that helps data principals grant, manage, and withdraw consent.

C) Security measures – The Data fiduciary must ensure the security measure while handling and processing the personal data and prevent the data breach and unauthorized access. On account of data breach, intimate each affected Data Principal, and Data Protection Board with a description of the breach, nature, extent, timing and location of its occurrence, Safety measures to mitigate risks, and remedial measures taken to prevent reoccurrence of such breach. This ensures the confidentiality, transparency, and integrity.

D) Data Erasure – If a Data Fiduciary processes data for purposes outlined in schedule III and Data Principal does not engage with the fiduciary within specified time, the personal data must be erased. Before erasure the Data Fiduciary must notify Data Principal at least before 48 hours in advance about the erasure. Data principals also have rights to erase data.

E) Verifiable Consent in case of Minors and Person with Disability (PwD) – This rule also talks about obtaining the verifiable consent of parents/guardians in the case of children and persons with disabilities. It states that the Data Fiduciary must ensure verifiable parental consent before processing a child's personal data by confirming the parent's identity and age with reliable details.

F) Data Protection Impact Assessments (DPIA) – Additional obligation has added to the Significant Data Fiduciaries which includes – conducting Data Protection Impact Assessment (DPIA) and a comprehensive audit once in every year. The results and the assessments of the audit must be reported to the DPB (WHAT IS DPB?) containing key findings.

G) Transfer of the personal data outside India - Transfer of personal data outside India, subject to conditions specified by the Central Government in a special or general order. This ensures that the personal data must protected under the Act.

H) Data Protection Board (DPB) - Appointment, terms of

service, and functioning of the Data Protection Board, including the appointment of the Chairperson and Members, their salaries, and the procedures for Board meetings.

I) Appeal – The details of the process for appeal to the Appellate Tribunal against decisions/order of the Data Protection Board has been mentioned in this rule. It must submit digitally, and procedure set by the Appellate Tribunal on its website.

These rules are the wake call for each of the organizations to handle sensitive data with care. The release of the draft Digital Personal Data Protection Rules 2025 marks an important shift towards implementing the act into operation while also maintaining the best standards of data privacy and security. As the rules will be released soon following the suggestions and objections. Organisations should take advantage of this opportunity to align their infrastructure and processes with the draft rules, as well as provide timely training to stakeholders to ensure seamless compliance with the act.

As due to the very nature of business, often companies close down, get acquired and sell themselves to others, thus rules should include what happens in each of these cases. It may be true that the original company agreed to protect the data, but the acquiring company may not honor those agreements. The rules should factor in such scenarios too.



EVENT REPORTING: IP AWARENESS CAMPAIGN BY DUXLEGIS AT NMIMS, KHARGHAR



On **January 10, 2025**, DuxLegis Attorneys proudly organized a Community service event on behalf of the American Intellectual Property Law Association (AIPLA). The event was designed to raise awareness about intellectual property (IP) among students and highlight the role AIPLA plays in supporting law students in building their careers in IP law.

The event began with an energizing walkathon, starting from **Kharghar Golf Course** and concluding at **Narsee Monjee Institute of Management Studies (NMIMS)**. Students, faculty members, and representatives from DuxLegis Attorneys enthusiastically participated in this initiative, emphasizing the importance of community engagement and the collective effort required to foster awareness about intellectual property.

Following the walkathon, an interactive session was conducted with fourth-year law students. The session focused on:

- 1. The Importance of IP Awareness:** Highlighting why understanding intellectual property rights is crucial for individuals and businesses in today's innovation-driven world.

- 2. AIPLA's Role in Guiding Law Students:** A detailed discussion on the resources provided by AIPLA to support law students, including mentorship programs, webinars, and access to cutting-edge developments in IP law.

- 3. Career Development in IP Law:** Practical advice on how students can build a rewarding career in IP, with insight into networking opportunities and skill development.

An exciting announcement was also made during the session: AIPLA has made its law student membership **COMPLETELY FREE**, further solidifying its commitment to fostering the next generation of IP professionals.

The event concluded on a high note, with students expressing their enthusiasm to explore IP law as a career path and appreciation for the support provided by both AIPLA and DuxLegis Attorneys. This event not only served as a platform to promote IP awareness but also strengthened ties between the academic and professional communities.

We look forward to organizing similar initiatives in the future to continue empowering students and fostering a deeper understanding of intellectual property.



ATTENDED ANNUAL GLOBAL IP CONVENTION (GIPC), 2025



We are delighted to share that Ms. Priti More, our Associate Partner had the honor of attending the 17th Annual Global IP Convention (GIPC), held in Mumbai from January 11-12, 2025. This premier event brought together industry leaders, legal experts, innovators and policymakers to explore the cutting-edge developments shaping the future of IP.

The conference focused on how Artificial Intelligence (AI) is revolutionizing the Intellectual Property landscape in India, presenting both unprecedented opportunities and unique challenges. From discussions on patenting AI-driven innovations and automating IP processes to addressing the complexities of protecting AI-generated creations, the sessions offered a wealth of knowledge and actionable insights.

The event also highlighted the role of AI in fostering innovation across industries, as well as the importance of evolving our legal frameworks to keep pace with technological advancements. The engaging panel discussions, interactive workshops, and thought-provoking keynote sessions led by some of the brightest minds in the field were inspiring and insightful.



Beyond the enriching discussions, the conference provided an excellent opportunity to reconnect with friends, peers, and collaborators from the IP community. Strengthening relationships and exchanging ideas with like-minded professionals further underscored the importance of fostering a collaborative approach to navigating the future of IP in the AI era.



INDIAN PATENT OFFICE INVITES PUBLIC SUGGESTIONS ON DRAFT GUIDELINES FOR AYUSH-RELATED INVENTIONS

The Indian Patent Office has issued draft guidelines for processing patent applications in the AYUSH sector on January 31, 2025, encompassing Ayurveda, Yoga & Naturopathy, Unani, Siddha, and Homeopathy. These guidelines aim to ensure clarity, consistency, and uniformity in the examination of patents within this domain.

The IPO encourages stakeholders, researchers, and AYUSH practitioners to review the draft and share their inputs.

The Submission Deadline: February 28, 2025

CONTACT: Ms. Anita Jatav, Deputy Controller of Patents & Designs (anita.ipa@nic.in)

Access the Draft Guidelines here:

https://ipindia.gov.in/writereaddata/Portal/Images/pdf/Draft_GUIDELINES_FOR_PROCESSING_PATENT_APPLICATIONS_OF_AYUSH_SYSTEMS_AND_RELATED_INVENTION_S.pdf



IP SNIPPETS:

PATENT CASES:

**MACLEODS PHARMACEUTICALS LTD (Petitioner) vs
THE CONTROLLER OF PATENTS & ANR.
(Respondents)**

CASE NO.- C.O.(COMM.IPD-PAT) 38/2022
DECIDED ON- January 15, 2025



In the present case, the petitioner has filed a revocation petition under section 64(1) of

the Patent Act, 1970 against the Indian patent no. IN 243301 i.e., granted to the respondent 2 (Boehringer Ingelheim Pharma GmbH & Co. KG). Subsequently, the respondent 2 filed an infringement suit against the petitioner alleging infringement of their patent. Further after the expiry of the patent, respondent 2 filed two applications for seeking dismissal of the revocation of the petition on the grounds that the patent has been expired, and the petitioner has filed a written statement seeking invalidity of the subject patent.

The petitioner stated that petition under section 64 or in a counterclaim can only be made in high court whereas decision on invalidity of patent based on defense under section 107 can be taken in district court which does not entitle a respondent to seek revocation. The petitioner further argues that revocation of petition shall survive after the expiry of the patent, if the patentee's (respondent 2) claim for damages endures even after the patent has expired.

The Hon'ble Delhi High Court analyzed that the scope of petition under section 64 is different from the defense of invalidity under section 107 and therefore the present revocation petition is maintainable. The Hon'ble Court concluded that the present petition can be sustained even if the term of the patent has expired.

**M/S.HALDOR TOPSOE A/S (PETITIONER) vs
CONTROLLER OF PATENTS AND DESIGNS.
(RESPONDENTS)**

CASE NO.- Writ Petition No.2943 of 2022
DECIDED ON - January 2, 2025



The petitioner has filed the present writ petition against the respondent challenging the

rejection of the patent application filed by the petitioner under section 21 of the Patent Act, 1970. The petitioner stated that only hearing notice was received and no second

examination report was submitted by the respondent, yet the respondent has referred to the second examination report in the impugned order by total non-application of mind. The petitioner also argued that they requested the respondent to serve the copy of the impugned order and only on receipt of the receiving the impugned order, without causing any delay the petitioner filed for the writ petition. The respondent argued that even though the impugned order refers to section 21 of the Patent Act, 1970, the order was passed under section 15 of the Patent Act, 1970 and that they have considered the submissions to the first examination report by the petitioner before rejecting the patent application. The respondent further argued that the petitioner had delayed in approaching the court and the only remedy available with the petitioner was to file an appeal rather than a writ petition.

The Hon'ble Madras High Court observed the following matter and stated that the impugned order was passed under section 21 of the Patent Act, 1970 by the respondent, failing to provide for an appeal remedy, therefore the writ petition filed by the petitioner is maintainable. The Hon'ble Court noted that the petitioner provided sufficient reasons for delay in filing the writ petition, which however was filed in the same month when the copy of the impugned order was received. The Hon'ble Court also observed that the impugned order is unsustainable as it violates the principle of natural justice and on the ground of non-application of mind. The Hon'ble Court concluded by quashing the impugned order and remanding the patent application for fresh consideration.

**SPV LABORATORIES PRIVATE LIMITED (Appellant)
vs THE CONTROLLER GENERAL OF PATENTS AND
DESIGNS (Respondent)**

CASE NO.- C.A.(COMM.IPD-PAT) 41/2024
DECIDED ON - December 12, 2024

The present appeal has been filed under section 117 A of the patent act against the order passed by respondent for refusing to restore the lapsed patent. The respondent refused to restore the lapsed patent under the ground that the appellant has failed to meet the requirements under section 60(3) of the Patent Act and Rule 84(3) of the Patents Rules. The appellant argued that the application for restoration of the lapsed patent was filed within 7 months from the date the patent was ceased and the delay for renewal payment was caused due to unfortunate incident in patent attorneys family. The respondent countered that the appellant had authorized two attorneys, and the appellant did not clarify if the family emergency had affected both the attorneys.

The Hon'ble Delhi High Court found that the appellant demonstrated continued interest in the patent by filing form

27 and the appellant had filed the restoration application within the prescribed period. The Hon'ble Court set aside the impugned order and directed the restoration of the patent with applicable renewal fees and penalties.

TRADE SECRET CASE

**CIGMA EVENTS PRIVATE LIMITED (Plaintiff)
vs DEEPAK GUPTA & ORS. (Defendant)**

CASE NO. - C.S. (OS) 1011/2024
DECIDED ON - December 24, 2024

The Plaintiff filed a suit against its former employees (Defendants Nos. 1 to 4) and two competing entities (Defendants Nos. 5 and 6). The Plaintiff argued that the Defendants used its confidential client data and goodwill to poach clients, organize competing events, and inflate bills, all of which breached employment contracts. The Defendants contended that their actions fell within lawful competition. They argued the Plaintiff's claims lacked evidence and that client information was publicly available, with no proprietary trade secrets involved. They also challenged the enforceability of non-compete clauses as unreasonable and against public policy.

The Hon'ble Delhi High Court held that the Plaintiff failed to produce compelling evidence proving the Defendants' misuse of trade secrets or proprietary information. The Hon'ble Court emphasized that general client lists, and knowledge acquired during employment do not constitute confidential information unless they possess distinct commercial value. Furthermore, non-compete clauses imposing unreasonable restrictions post-employment are unenforceable under Section 27 of the Indian Contract Act. The Hon'ble Court denied the Plaintiff's request for an interim injunction, allowing the Defendants to continue their business activities, citing insufficient evidence and the importance of protecting lawful competition and employment opportunities.

TRADEMARK CASES

ROPEN TRANSPORTATION SERVICES PRIVATE LIMITED (Petitioner) vs MR. NIPUN GUPTA & ANR (Respondents)

CASE NO. - C.O. (COMM.IPD-TM) 80/2024
with I.A. 31622/2024, I.A. 34641/2024, I.A. 34644/2024,
I.A. 34647/2024.
DECIDED ON - January 15, 2025

In the present case, the petitioner filed a rectification petition against the respondent, seeking the cancellation of the **rapido** and 'RAPIDO' trademark registrations obtained by the respondent. The petitioner, who has been using the **RAPIDO** mark since 2015 and holds multiple registrations for the mark, argued that the respondent's registration of the identical mark in classes 12, 25, 39, and 42 was likely to cause confusion among consumers and mislead them into associating the respondent's services with those of the petitioner. The respondent neither filed any reply nor appeared in the proceedings, leading to an *ex-parte order* against them. The respondent's registration, obtained in 2020 on a "*proposed to be used*" basis, was claimed to be a dishonest attempt to trade upon the petitioner's established brand.


The Hon'ble Delhi High Court observed that the petitioner's **rapido** marks were well-established and had acquired immense goodwill, whereas the respondent's registration was identical and related to similar goods and services. Therefore, the Hon'ble High Court concluded that the respondent's mark was likely to cause confusion and contravened Section 11 of the Trade Marks Act. The Hon'ble Court ordered the removal of the impugned registrations from the Trade Mark Register, granting relief in favour of the petitioner.

GENSOL ELECTRIC VEHICLES PVT. LTD. (Plaintiff) vs MAHINDRA LAST MILE MOBILITY LIMITED (Defendant)

CASE NO. - I.A. 40846/2024 in CS(COMM) 849/2024
DECIDED ON - January 13, 2025

The plaintiff filed a suit against defendant seeking an interim injunction to restrain the defendant from using the trademarks 'ZEO' and 'eZEO'. The plaintiff argued that they were the first to adopt and register the mark 'EZIO' **ezio** and had invested significant resources in its development. They claimed the defendant's marks were phonetically and visually similar, infringing their intellectual property. Defendant contended that their mark

'eZEO' / **eZEO**, stood for "Zero Emission Option," coined independently, and that their vehicles catered to different segments. They highlighted the use of their house mark 'Mahindra,' **mahindra** which distinguished their brand from the plaintiff's.

The Hon'ble Delhi High Court noted that the plaintiff had not launched its vehicle, while the defendant had already introduced their product to the market. The Hon'ble Court held that the vehicles targeted different consumer segments and that the inclusion of 'Mahindra' with 'ZEO' 

made the defendant's mark distinctive. Furthermore, the likelihood of confusion was deemed remote given the informed decision-making process of automobile consumers. The Hon'ble Court dismissed the plaintiff's application for an interim injunction, citing the absence of a prima facie case and a balance of convenience favoring the defendant.

KTC (INDIA) PVT. LTD. (Plaintiff) vs M/S. HIMALAYAN NOMAD KTC, KTC TOURS & TRAVELS AND BITLA SOFTWARE PVT. LTD. (Defendants)

CASE NO. - CS (COMM) No.: 658 of 2021
DECIDED ON - January 08, 2025



The plaintiff has filed the suit for trademark infringement. The plaintiff argued that the plaintiff is the lawful proprietor of the well-known trademark 'KTC' used in the transportation business since 1943. The defendants have been using trademarks identical or deceptively similar to the plaintiff's trademark 'KTC' in their business names and websites, thereby causing confusion in the market and damaging the plaintiff's reputation, goodwill, and business. Despite receiving a cease-and-desist notice, the defendants continued their infringing activities. The plaintiff seeks an injunction to stop the defendants' use of the mark, along with damages and other remedies.

The Hon'ble District Court observed that the defendants adopted a similar trademark to exploit the plaintiff's well-established KTC mark, likely causing confusion among customers. The plaintiff, a prior and registered user of the KTC trademark was found to have superior rights over the defendants, who failed to prove prior use and had discontinued using "KTC Tours & Travels." The Hon'ble Court decreed in favour of the plaintiff, granting a permanent injunction against the defendants from using trademarks confusingly similar to the plaintiff's KTC mark. The case was concluded with a decree in favor of the plaintiff.

PARAGON POLYMER PRODUCTS PRIVATE LIMITED (Appellant) Vs M/S. SUMAR CHAND NAHAR AND THE JOINT REGISTRAR OF TRADE MARKS (Respondents)

CASE NO. - (T)CMA(TM) No.80 of 2023
DECIDED ON - January 07, 2025

Appellant mark	Respondent mark
	

The appellant, engaged in the manufacture and sale of footwear under the trade name

'PARAGON', filed a suit against the respondent, a manufacturer of electric motors under the same trade name, 'PARAGON'. The appellant opposed the respondent's application to register the mark 'PARAGON' under Class 9, arguing that its mark 'PARAGON' is well-known in the footwear industry, having been used since 1975, and was recognized as a well-known mark by the Trade Mark Registry in 2017. The appellant contended that the first respondent's use of the same mark would cause confusion. The respondent countered that the mark had acquired distinctiveness in the field of electrical products and that the appellant had submitted to the use of the mark in this domain. The respondent further argued that the two businesses cater to different markets, thus eliminating any risk of confusion.

The Hon'ble Madras High Court observed that the appellant cannot claim exclusive rights over the mark 'PARAGON' solely due to its recognition as a well-known mark in the footwear sector. The Hon'ble Court emphasized that well-known marks are not entitled to retrospective protection. The Hon'ble Court also noted that while the appellant's mark is recognized in the footwear industry, the respondent's use of 'PARAGON' in the electric motor sector has been longstanding and honest. The Hon'ble Court acknowledged the principle of honest and concurrent use of trademarks in different sectors and decided that both parties should be allowed to use the mark in their respective industries, subject to limitations.



COPYRIGHT CASE

**ENTERTAINMENT NETWORK INDIA LIMITED
(Plaintiff) vs MISSMALINI ENTERTAINMENT PVT LTD
AND OTHERS (Defendants)**

CASE NO: CS(COMM) 1141/2024
DECIDED ON: December 20, 2024



The plaintiff filed a suit against the defendants, alleging copyright infringement. The plaintiff claims exclusive ownership of

the intellectual property rights to its popular radio and digital show, “**What Women Want**”, which has run five seasons since 2018. The suit was filed after defendant no. 1 uploaded an interview with the show’s celebrity host, Kareena Kapoor-Khan, without proper authorization, including its own logo and obscuring the plaintiff’s branding. The plaintiff argued that these actions misrepresented the show and violated its copyright. Defendant no. 1 contended that they had an agreement to post the interview, but the plaintiff asserted that defendant no. 1 violated the terms, including unauthorized use of their logo. Despite a cease-and-desist notice, defendant no. 1 allegedly uploaded the content on multiple platforms, including YouTube and Instagram, misappropriating the show’s intellectual property.

The Hon’ble Delhi High Court observed that the plaintiff had a prima facie case for granting an injunction, noting the unauthorized use of the plaintiff’s copyrighted content and branding by defendant no. 1. The Hon’ble Court issued a permanent injunction restraining defendant no. 1 from further use of the plaintiff’s copyrighted work. Defendant no. 1 was also ordered to take down the infringing videos from Instagram and YouTube within 48 hours, with non-compliance leading to further action by other defendants.

EXCITING NEWS!



DIVYENDU VERMA

We are delighted to announce that **Mr. Divyendu Verma** will be attending the **2025 AIPPI Mid-Term Meeting - Zagreb**.

Date: November 20-21 February, 2025

**Venue: Sheraton Zagreb Hotel,
Ul. kneza Borne 2, 10000, Zagreb, Croatia**

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This Newsletter is published by DuxLegis Attorneys from 902, Kamdhenu Commerz, Sector 14, Kharghar, Navi Mumbai, Maharashtra, India on 5th February, 2025.