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APPLICABILITY OF SECTION 3 (d) AND SECTION 3 (e) IN CONTEXT WITH BIOCHEMICAL INVENTIONS: CLARIFICATION BY MADRAS HIGH COURT



Ms. Priti More

(T) CMA (PT) No.33 of 2023 (OA/6/2017/PT/CHN)
Decided on: September 20, 2023

Novozymes Vs. The Assistant Controller of Patents & Designs

Introduction:

The Madras High Court has recently passed an order in the matter of Novozymes (appellant) vs Assistant Controller of Patents & Design (respondent), providing clarity about the applicability of section 3 (d) and section 3 (e) for the biochemical inventions.

Background

The Appellant had filed the patent application no. 5326/CHENP/2008, originally titled as “Phytase Variants” and later amended to “Phytase Variants with Improved Thermostability”. The amended claims were primarily rejected on the grounds that the claimed invention is a known substance, hence not patent-eligible under section 3(d) of the Patents Act, 1970 and claims 8-11 is a composition obtained by the mere admixture of ingredients, hence falls within the scope of Section 3(e) of the Patents Act, 1970. The impugned order was silent on the patentability of claimed invention under Section 2(1)(j) of the Patents Act.

Contentions

Contentions by the Appellant

The learned counsel had provided the following contentions on behalf of the appellant:

1. The appellant contended that section 3(d) of the patent act applies only to the pharmaceutical substances and not to the claimed invention matter i.e., biochemical substances like phytase. The appellant relied on the judgement of the Division Bench of this Court in Novartis AG v. Union of India (Novartis DB), Manu/TN/1263/2007 wherein the Division Bench concluded that the first limb of Section 3(d) is referable only to the field of pharmacology. The appellant has also relied on the judgment of the Hon'ble Supreme Court in

2. Novartis AG v. Union of India (Novartis SC), (2013) 6 SCC 1 to content that the amendment was intended to deal only with chemical substances, more particularly pharmaceutical products. The appellant had further contended that the Section 3(d) did not apply to the subject patent application as explanation to Section 3(d) enumerates several derivatives of chemical substances. The learned counsel stated that the generic expression “and other derivatives of known substance”, must be limited to the derivatives of chemical substance and should not extend to biochemical substance such as phytase, so the implication of section 3(d) does not apply to the claimed invention.
3. In third contention the appellant stated that section 3(d) enables the grant of a patent for a new form of a known substance provided such new form of the in the enhancement of the known efficacy of that substance. The learned counsel of the appellant submitted that the claimed invention enhances the thermostability of phytase and this enhancement improves the overall efficacy of the product, for example, enabling the product to be produced and marketed in pellet form. The appellant also pointed out various phytase with their improvement factor (IF) in excess of one which satisfies the test of enhanced efficacy of the variants of phytase.
4. Regarding non-patentability under section 3 (e), the learned counsel of the appellant contended that section 3(e) applies only to the independent claim and does not apply to the dependent claims such as claims 8-11, as in the present case. It was also argued that the Section 3(e) does not apply unless the substance is obtained by a mere admixture of known ingredients. Since, the primary ingredient is a variant of phytase of claim 1, section 3 (e) is inapplicable in the present application.

Contentions by the Respondent

1. In response to the appellant against section 3(d), the respondent stated that the Patent Act uses the expression “known substance” and not the “pharmaceutical substance”. Hence section 3 (d) is not just limited to the pharmaceutical product, there is nothing in the explanation of section 3 (d) that limits the scope to synthesized chemicals. The respondent had further submitted that the expression “and other derivatives of known substance” also applies to variants of phytase as phytase and its variants are biochemical substances.
2. Regarding the applicability of section 3(d), respondent further contended that a new form of a known substance is not patent-eligible unless it results in the enhancement of the known efficacy of the substance. The respondent contended that enhancement of efficacy can be claimed only if the appellant successfully demonstrates that the enzymatic activity of the phytase is enhanced by the variants in respect of which the patent is claimed. The respondent pointed out that the appellant claims for efficacy are limited only to improved thermostability and not to the enzymatic activity.
3. With regards the applicability of Section 3(e) of the Patents Act, the respondent contended stated that the claim 8-11 are composition claims which is not patent-eligible unless the applicant for patent demonstrates that there is synergy between the ingredients forming the composition and that, as a result, the composition is more than the sum of its parts.

To the above contentions, the appellant further submitted the rejoinder claiming that the composition claims are dependent on independent claim 1, so it is not necessary for the ingredients constituting the composition to have the synergistic qualities. Further the enumerated derivatives in section 3 (d) are derivative forms of synthesized chemicals and phytase is biochemical substance. The learned counsel further contended that the thermostability is not an inherent characteristic of phytase and enhanced thermostability enhances the known efficacy of the substance by enhancing the ability to produce the variants of phytase in pellet form and reducing the dosage requirements

Court's Analysis and Conclusion:

Rejection Under Section 3(d):

The Hon'ble Court had provided the clearer view of Section 3 by stating that the invention should pass through the exemption filters provided in the section 3 of the patent act, which explains non patentable inventions, hence even if claims meet the requirements of Section 2(1)(j) of the Patents Act, they should be pass through section 3 to be consider as eligible for patent.

The Court had further explained section 3 (d) of the Patent Act, which consists of three limbs, separated by the disjunctive “or”. The three limbs are as under:

(i) The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance.

(ii) The mere discovery of any new property or new use for a known substance.

(iii) Of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.

The Hon'ble Court had further provided the explanation about the following questions:

What are to be considered as known substances mentioned in section 3 (d)?

Further the Hon'ble Court has explained about “what substances are qualified as known substance”. Based on contentions of appellant and the respondent, and the judgement passed by Divisional Board in the matter of Novartis DB and Novartis SC, the Hon'ble Court noted that Section 3(d) not only applies to pharmaceutical and agrochemical substances but also to biochemical substances. Further, the Hon'ble Court noted that in Novartis AG v. Union of India (Novartis SC), (2013) 6 SCC 1, it was held by the Supreme Court that the test of efficacy under Section 3(d) would vary depending on the product under consideration and that, in the context of pharmaceutical products, it means therapeutic efficacy.

What parameters are to be consider while explaining the efficacy and what a marginal improvement in efficacy suffice?

The Hon'ble Court had also explained about the expression “the enhancement of the known efficacy of that substance” used in the section 3 (d) of the Patent Act. Since there is nothing in section 3(d) which supports the interpretation that enhancement of known efficacy of the substance should be restricted to the specific type of efficacy, for example in the present matter, engineering or prospecting variants of phytase with inherently greater enzymatic activity over the reference phytase, and as the respondent didn't raise any objections on the numerical values assigned to the present application's claim of the enhanced efficacy by adopting measurement units such as IF, so the reasonable enhancement may be defined as enhancement that is material from an improvement of efficacy perspective.

Therefore, the claimed invention satisfies the requirement of enhancement of known efficacy of phytase.

Rejection Under Section 3(e):

The Hon'ble Court observed that in the composition claim 8-11, claim 8 is dependent on claim 1, claim 9 comprise not only phytase but all the following group of enzymes: amylase, phytase, phosphatase, xylanase, galactanase, alpha-galactosidase, protease, phospholipase, and/or beta-glucanase and claims 10-11 are for animal feed compositions, there is nothing in the application that limits to the composition claim formed by the aggregation of known ingredients. According to the Hon'ble Court, the adjective “known” is used as a qualifier in the following

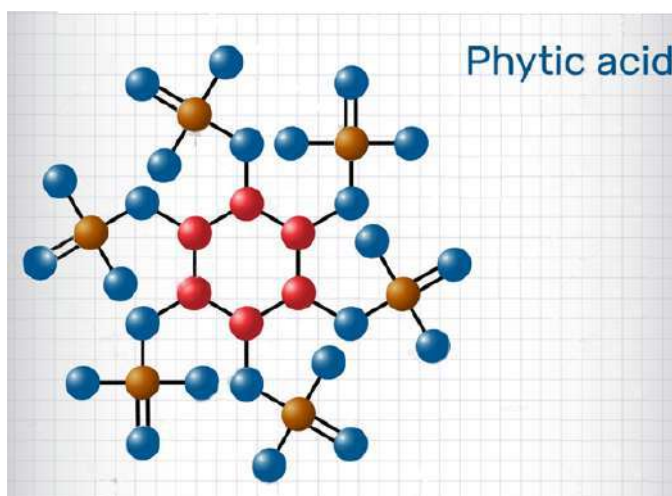
clauses of Section 3: Section 3(d) [“known substance”]; Section 3(f) [“known devices”]; and Section 3(p) [“known properties of traditionally known component or components”], but is conspicuous by its absence in Section 3(e). If any of the ingredients of the composition independently satisfies the requirements for an invention under the Patents Act, a patent may be applied for and granted in respect thereof notwithstanding Section 3(e).

The Hon'ble Court further noted that Section 3(e) does not appear to be limited in its application to independent claims. Instead, it appears to be to exclude from patent-eligibility of any composition claim for a substance that merely exhibits the aggregate properties of its constituents.

The Hon'ble Court concluded that the patent cannot be granted for a composition claim solely for that reason. Therefore, the rejection of composition claims 8-11 is justified in the absence of evidence that the composition is more than the sum of its parts.

Conclusion:

Perusing through all the above matters, the Hon'ble Court set aside the impugned order as regards to the rejection of claims 1-7 and since the impugned order was only limited to section 3 (d) and 3 (e) and didn't raise any objection regarding the requirements of novelty, inventive step, capability of industrial application or completeness of disclosure, the Hon'ble Court has ordered that application shall proceeded to grant on the above modified terms.



DRAFT GEOGRAPHICAL INDICATIONS OF GOODS (REGISTRATION AND PROTECTION) (AMENDMENT) RULES, 2023

On 17th October 2023, the Ministry of Commerce and Industry (MoCI) introduced the draft amendments to the Geographical Indication Rules, 2002, to amend First Schedule of Geographical Indications of Goods (Registration and Protection) Rules, 2002, and calls for suggestions and comments from the stakeholders within 30 days of publication, i.e., November 19, 2023.

The Department for Promotion of Industry and Internal Trade (DPIIT) and the Controller General of Patent, Designs and Trademark (CGPDTM) announced the draft amendments on their website on October 27, 2023. This initiative is a noteworthy attempt to preserve Indian culture and to promote connections between people and their heritage.

Following are the major amendments made in respect of fee structure as against the old rules:

1. The fee for filing the application for the registration of a geographical indication for goods included in one class has been reduced. Previously the fee for filing the application for the registration was INR 5000. Now, the fee for filing the application is INR 1000. This fee is also applicable in cases of filing the application for the registration of a geographical indication for goods included in one class from a convention country, for goods in different classes, and for goods in different classes from a convention country.
2. The fee for filing the application for the registration of an authorized user of a registered geographical indication has been reduced to INR 10, which was INR 500 as per previous rules and the fee for filing application to Registrar for additional protection to certain goods INR 12000, which was INR 25000 as per previous rules.

According to the previous rules, there were same charges for GI Application and Authorized User Application. However, the present draft includes reduction of charges for Authorized User Applications in following scenarios/cases:

- 1) On request for alteration of the address of the principal place of business or of residence in India or of the address in the home country abroad or to request for correction of any error in the name, address or description of the registered proprietor or the authorized user INR 30 in for authorized user application.
- 2) On request for certificate of Registrar INR 150

and on request to Registrar for a duplicate or further copy of certificate INR 40.

The proposed amendments to the Geographical Indications of Goods (Registration and Protection) Rules, 2002 are available at:

https://ipindia.gov.in/writereaddata/Portal/News/929_1_draft_Geographical_Indications_of_Goods_Registration_and_Protection_Amendment_Rules_2023.pdf

Relevant links are mentioned below: -

[2020 Amendments to the GI Rules](#)
[Geographical Indication Rules, 2002](#)

DUXLEGIS ATTENDED THE AIPLA ANNUAL MEETING 2023

DuxLegis Attorneys, a prominent player in the field of intellectual property in India, took center stage at the prestigious AIPLA Annual Meeting 2023, held at the Gaylord National Harbor from October 19 to October 21, 2023. The event, a gathering of over 1400 members and IP attorneys from around the globe, served as a dynamic platform for knowledge exchange and networking.



Representing DuxLegis, Mr. Divyendu Verma, the Managing Partner, was accompanied by Mr. Paa S Jallow, the Director of US Operations, based in DuxLegis' Washington DC office. The annual meeting kicked off on October 19 with a compelling plenary session, paving the way for more than 30 technical sessions that unfolded over the next three days.

The event culminated on October 21 with a symbolic transition of leadership as President Brain Batzli passed the torch to Ann Mueting. DuxLegis's presence was not just notable but impactful, with the team actively participating in various sessions, discussions, and networking opportunities.



In reflecting on the event, Mr. Verma expressed satisfaction with DuxLegis's meaningful engagement at the AIPLA Annual Meeting, contributing to its success and reaffirming the firm's commitment to staying at the forefront of developments in intellectual property in India.

As DuxLegis continues to play a pivotal role in shaping the discourse in the IP landscape in India, its participation in the AIPLA Annual Meeting adds another feather to its cap of achievements and reinforces its position as a key player in the global intellectual property community.



DUXLEGIS MAKES A MARK AT THE AIPPI ANNUAL CONGRESS 2023 IN ISTANBUL

DuxLegis, a prominent player in the field of intellectual property rights in India, made a significant impact at the AIPPI Annual Congress held in Istanbul, Turkey, from October 22 to 25, 2023. The event was attended by more than 2100 distinguished professionals and experts from the global intellectual property community, offering a unique platform for knowledge exchange and collaboration.

DuxLegis's presence at the AIPPI Annual Congress marked not only a successful networking opportunity but also a celebration of their substantial contribution to the field. As the firm continues to make strides in the intellectual property realm, the release of this significant publication adds another feather to its cap, solidifying its position as a key player in the industry.



A highlight of DuxLegis's participation was the unveiling of their AIPPI book, titled "Artificial Intelligence and Patents: An International Perspective on Patenting AI-Related Inventions," published by Wolters Kluwer. This comprehensive work delves into the realm of AI technology, providing valuable insights and addressing various patent policy challenges posed by this cutting-edge field.



The book's structure begins with an insightful introduction to AI technology, setting the stage for an in-depth exploration of patent policy issues. Subsequent chapters offer a meticulous analysis of national and regional laws, offering a nuanced perspective from 16 different jurisdictions.

Divyendu Verma, the Managing Partner of DuxLegis, made a significant contribution as the co-author of the Indian chapter. This acknowledgment not only highlights the firm's dedication to excellence but also showcases the expertise of its partners in the ever-evolving realm of intellectual property rights.



IP SNIPPETS:

PATENT CASES:

SYNGENTA LIMITED (Appellant) vs CONTROLLER OF PATENTS AND DESIGNS (Respondent)

Case Number: C.A.(COMM.IPD-PAT) 471/2022
Decided on: 13 October 2023

The present appeal has been filed by the appellant to challenge the refusal of their divisional application on the ground that the parent application did not contain any claims relating to plurality of a distinct invention hence, the divisional application was not eligible under provision of Patent Act, 1970. The respondent relied on the judgement of a coordinate bench of the Hon'ble Court in *Boehringer Ingelheim International GMBH vs The Controller of Patents* to application, that the parent application must contain the claims with "plurality of invention". The learned Single Judge of the Court questioned the correctness of the view expressed in *Boehringer Ingelheim International GMBH vs the Controller of Patents* regarding the requirement of a plurality of inventions. The Hon'ble Delhi High Court observed that a divisional application filed in terms of section 16 of the Act would be maintainable provided that the plurality of invention is disclosed in the already filed provisional or complete specification and there should not be any distinction between the contingency of a divisional application filed by applicant suo motu or pursuant to the objection raised by the controller. In both the situation the plurality of invention must be tested based upon the disclosure made in either the provisional or complete specification.



THE CHINESE UNIVERSITY OF HONG KONG KNOWLEDGE TRANSFER OFFICE (Appellant), SEQUENOM, INC. (Appellant) vs THE ASSISTANT CONTROLLER OF PATENTS & DESIGNS (Respondent)

Case number: CMA (PT) No.14 of 2023
& C MP No.16669 of 2023
Decided on: 12 October 2023

The current appeal has been filed by the appellant w.r.t the rejection of the patent application on the ground of Sections 3(i) of the Patents Act i.e., "methods of diagnosis practised on the human and animal body is not patentable".

The appellant has filed the Indian national phase application in respect of a claimed invention entitled "Fetal Genomic Analysis From a Maternal Biological Sample". The respondent rejected the invention on the ground that the invention was not patentable under section 3(i) as every method step involved in the process of diagnosis qualified as a diagnostic method. The Hon'ble Madras High Court observed the following issue and is of opinion that claim should be examined to determine whether a diagnosis for treatment is made, and if such diagnosis is not definitive, it would be ineligible for patent, whereas, if diagnosis for treatment cannot be made, it would be eligible for patent. The Hon'ble Court further noticed that the Patent Office has granted patents to in vitro processes and there is inconsistency, and there is a case to consider options such as restricting the scope of the expression 'diagnostic' in Section 3(i) to in vivo processes and counter balancing by providing for compulsory licensing. The Hon'ble Court stated that "determination of foetal fraction is related to diagnosis but is not "diagnostic" and the following process cannot per se uncover pathology and, therefore, would not qualify as "diagnostic". The Hon'ble Court concluded the following matter by rejecting the objection as untenable and proceeding the application to grant based on amended claims 1-12.

TRADEMARK CASES:

DOMINOS IP HOLDER LLC & ANR. (Plaintiffs) vs. MS DOMINICK PIZZA & ANR. (Defendants)

Case Number: CS(COMM) 587/2022
Decided On: 26 September 2023

In the Delhi High Court, the present suit was filed by plaintiffs for seeking permanent injunction restraining defendants from infringement and passing off of plaintiffs' registered trademark "Domino's Pizza" and to lock, block, suspend and transfer the domain names www.dominickpizza.com and www.dominickpizzas.com. The Delhi High Court emphasized the need for increased caution and attention in preventing imitative attempts at trademarks related to food items and eateries. The Hon'ble Court ruled that the phonetic similarity between "Domino's" and "Dominick's," logos, and services made the marks deceptively similar, which may create confusion for individuals with average intelligence and imperfect recollection. The Hon'ble Court further noted that the textual material, 'CHEESE BURST' and 'PASTA ITALIANO' was identical between the plaintiff and the defendant. Hence, the Hon'ble Court directed the defendants to withdraw an application submitted to the Trademarks Registry and passed judgement in favor of the plaintiffs.



**JAPAN PATENT OFFICE (Plaintiff)
vs MS. A2Z GLASS AND GLAZING CO.
& ORS. (Defendants)**

Case Number: CS(COMM) 720/2023, I.A. 20046/2023, 20047/2023, 20048/2023, 20049/2023, 20050/2023, 20051/2023, 20052/2023 & 20053/2023
Decided On: 11 October 2023

The plaintiff has filed the present suit where its logo has been used by the defendant for manufacturing and sale of tools and kits. The plaintiff is one of the five largest patent offices in the world. It is the Japanese governmental agency which oversees the Industrial Property Rights affairs in Japan. Whereas the defendants are engaged in the business of manufacturing and supply of glass connector and glass door handles, shower handles, shower hinges, etc. of third-party companies under their respective brand names. These defendants' have blatantly copied plaintiff's 'JPO' mark/logo, for manufacturing and selling of their products in India and filed application for trademark registration. The Hon'ble High Court opined that *“The suit presents a rather ironic situation, like a theft being committed in a police station. The JPO which itself protects and grants registrations to Intellectual Property owners, finds that its own mark/logo has been illegally adopted by the Defendants”*. The Hon'ble Court held that the use of an identical colour combination and an identical logo by defendants leaves no manner of doubt that the same is a complete imitation and copy of the JPO's logo.



who chooses to ride, not on his own, but on another's, reputation, may also legitimately be presumed not to be particularly circumspect with respect to quality of his product. Consumption of imitation or spurious chewing tobacco can result in serious and often irreparable adverse consequences on the health of the consumer. In such cases, additional vigilance, on the part of the Court, would be justified.

**BRITANNIA INDUSTRIES LIMITED (Plaintiff) vs
AMAR BISCUIT PRIVATE LIMITED & ORS.
(Defendants)**

Case Number: CS(COMM) 728/2023,
I.A. 20158/2023, 20159/2023, 20160/2023
Decided On: 12 October 2023

The present suit has been filed by the plaintiff against defendants seeking an



ad interim injunction to restrain the defendants from manufacturing, selling, or offering for sale products with packaging similar to Britannia's "Good Day Butter Cookies". The plaintiff initiated the suit after discovering the alleged infringement when a consumer posted about the defendants' use of the "Good Time" trademark and dress on a social media platform. The defendant was selling butter cookies/biscuits with different navy blue, yellow packaging till March 2022. Thereafter, the defendant brought a changeover to their new packaging which was identical to the packaging of the plaintiff as well as an attempt to pass off the Defendants products as that of the plaintiff. The Hon'ble Delhi High Court observed that butter cookies are products which are purchased by children, by literate and illiterate people across urban and rural areas. The enormous turnover of the plaintiff for the Britannia 'GOOD DAY' cookies leaves no doubt in the mind of the Court that the packaging and product achieved enormous recognition and goodwill in the market.

**SOPARIWALA EXPORTS & ORS. (Plaintiffs)
vs ASHRAF V(Defendant)**

Case Number: CS(COMM) 259/2021
Decided On: 09 October 2023

In the present suit, the plaintiff is seeking permanent injunction for infringing its registered trademark as well as copyright registration by using deceptively similar trademark and trade dress by the defendant. The plaintiff engaged in export of tobacco under trademark "AFJAL" and also selling in India. The plaintiff has placed all his registered trademarks and copyright of trade dresses of his product to vouchsafe its reach and reputation. Despite issuance of summons on repeated occasions, the defendant failed to appear before court and file any written statement. The Hon'ble High Court concluded that, *“In my opinion, an imitator, being one*



**BRITANNIA INDUSTRIES LIMITED (Plaintiff) vs
AMAR BISCUIT PRIVATE LIMITED & ORS.
(Defendants)**

Case Number: CS(COMM) 251/2021 & I.A. 13333/ 2022
Decided On: 09 October 2023

The present Interim application was filed by the plaintiff claiming that defendant 1 violated the order, and they sought



punitive action against defendant 1 under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 (CPC). A local commissioner was appointed by the Court to investigate the alleged violations. The local commissioner came across that the term "CrossFit" was written on flex hoardings and membership application forms, and other items, on the gym's property. The defendants argued that he had no association with the gym after the dissolution of the partnership in May 2019. The defendant further claimed to have started a separate gym named MMAAK and that they were unaware of the court order's existence until the local commissioner's visit. The plaintiff countered defendant's arguments, pointing to various pieces of evidence that indicated continued involvement by defendant 1 with the gym and the use of the "CrossFit" mark. The Court concluded that there was insufficient evidence to prove beyond a reasonable doubt that defendants had violated the court order dated 8 July 2021. The Court found that there was no conclusive proof of defendant's association with the gym or the use of the "CrossFit" mark after the dissolution of the partnership. Therefore, the Court declined to hold Defendant 1 guilty of disobedience and rejected the application for punitive action.

subject-provided images, and the defendant further submitted that the plaintiff has allegedly copied images from the defendant's website. The Hon'ble Court observed that, *"The present case raises the classic issue concerning the idea-expression dichotomy. The settled legal position as per the law enunciated above is that no copyright can be claimed in an idea. However, the expression of any idea cannot be imitated or copied, and if expression is copied, the same would constitute infringement of the copyright under Section 51 of the Copyright Act, 1957. The idea at the core is of a storytelling platform. There can be no monopoly over the running of such a platform. However, all such platforms that share stories about various individuals/subjects would be attaching/incorporating their own creative ways to communicate and disseminate the said stories, which constitute the expression. Such expression is protectable under Copyright law."* Hence, the Hon'ble Court issued an order that both parties should refrain from using each other's copyrighted works.

COPYRIGHT:

HUMANS OF BOMBAY STORIES PVT. LTD. (Plaintiff) Vs POI SOCIAL MEDIA PVT. LTD. & ANR. (Defendants)

Case Number: CS(COMM) 646/2023 & I.A. 18038/2023 & I.A. 20079/2023
Decided On: 11 October 2023

The present suit was filed in the Delhi High Court by the **HUMANS OF BOMBAY** **POI** PEOPLE OF INDIA plaintiff against defendant for seeking an injunction restraining the infringement of copyright of content consisting of the photographs, literary works forming the basis of stories, videos, creative expression, which includes the manner of presenting the stories. The Plaintiff asserted that defendants have imitated and copied a significant portion of their content, even replicating several images and further contends that this unauthorized reproduction constitutes copyright infringement. The defendant submits that common images between two websites may be due to

THE BHAKTIVEDANTA BOOK TRUST, INDIA (Plaintiff) vs HTTPS://BHAGAVATAM.IN/#GSC.TAB=0 & ORS. (Defendants)

Case Number: CS(COMM) 657/2023 and I.A. 18425/2023-18431/2023
Decided On: 21 September 2023

The Plaintiff has filed the present suit seeking permanent **The Bhaktivedanta Book Trust** **restraining** defendants from infringement of copyrights, damages, rendition of accounts of profit, costs, etc. The Plaintiff was established by His Divine Grace A.C. Bhaktivedanta Swami Prabhupada ('the author'), a renowned scholar and author of religious books and scriptures, known for creating simplified versions of scriptures that are easy to understand. The Hon'ble Court observed that there can be no copyright in scriptures. However, the manner in which the same is interpreted by different gurus and spiritual teachers being varied in nature, copyright would vest in respect of the original parts of the literary works which preach, teach or explain the scripture. The Hon'ble Court further observed that the defendants were engaged in large scale piracy, and were not merely reproducing scriptures but the summary, introduction, preface, cover, etc. of the plaintiff's copyrighted works. Accordingly, the Hon'ble Court restrained the defendants from reproducing, printing, communicating, etc. any part of the Plaintiff's works, and grant of an ex-parte ad interim injunction and directed takedown of the websites and mobile applications.



OTHER CASE:

ANIL KAPOOR (Plaintiff) vs SIMPLY LIFE INDIA & ORS. (Defendants)

Case Number: CS(COMM) 652/2023 and
I.A. 18237/2023-18243/2023
Decided On: 20 September 2023

The plaintiff has filed the present suit before Delhi High Court seeking protection of his own name, image, likeness, persona, voice, photographs, likeness, dialogues, manner of dialogue delivery, gestures, signatures, and various other attributes of his personality against misuse of all hues over the internet. The plaintiff alleged “misuse of features of his persona in malicious ways” which inter alia included use of dialogues as ringtones, manufacturing and selling merchandises with his image, domain names squatting. A major issue in this case was the wrongful use of cutting-edge technologies, such as artificial intelligence (AI), to manipulate and profit from the persona of a celebrity. The ruling emphasized that while free expression is allowed, including legitimate critique, satire, and parody, it should not transcend the line into damaging or destroying someone's reputation. The Hon'ble Court recognized the importance of safeguarding a person's personality traits, particularly in the era of cutting-edge technical tools like AI. Hence, the Court issued an injunction against many entities, preventing the use of plaintiff's name, likeness, or image for monetary gain, including via AI and GIFs, to protect plaintiff's personality rights.





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