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Newsletter | Issue 47 | November 2026



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COPYRIGHT PROTECTION IN ARCHITECTURAL WORKS: GAPS BETWEEN LAW AND PRACTICE



Ananya Sinha



Divya Sethi**

A building is the only piece of art you can live in, rent out and sell by the square foot, and copyright law is still working out what to do with it. Architecture sits at a unique intersection of art, engineering, and utility, making its relationship with copyright law both complex and evolving. Copyright in architecture once covered only drawings and plans, but the law now also protects the constructed building, recognizing that architectural expression continues into the built form. . However, this protection also gives rise to a fundamental issue: can architectural works truly be "owned"?

Who Owns a Building's Design?

The architect usually does, but the law protects less than most people think. The Copyright Act, 1957 lists a *"**work of architecture**"* as an artistic work under *Section 2(c)(ii). Section 2(b)* defines it as any building or structure having an artistic character or design, or any model of one. A building therefore qualifies only if it has "artistic character". *Section 13(5)* narrows this further: copyright subsists only in the artistic character and design, and does not extend to processes or methods of construction.

Ownership depends on the working arrangement. Under *Section 17(c),* work made in the course of employment belongs to the employer unless the parties agree otherwise, so a firm generally owns what its salaried architects design. An independent architect generally keeps the copyright unless it is assigned, even when the work is commissioned. The client usually gets an implied licence to build, but not to reproduce, sell or substantially modify the plans without consent.

Moral rights under *Section 57* stay with the author even after the economic rights are transferred. . In ***Raj Rewal v. Union of India CS (COMM) 3/2018,*** the Delhi High Court considered the demolition of the Hall of Nations in New Delhi, designed by Raj Rewal. The Court acknowledged the architect's moral rights but held that they do not extend to stopping an owner from demolishing a building he owns.

Ideas are FREE, Expression is NOT

Copyright protects expression, not ideas, a principle the Supreme Court set out in ***R.G. Anand v. Delux Films (1978).*** Abstract concepts such as "sustainable design", "passive solar orientation" or "open floor planning" are free for anyone to use. What can be protected is a particular expression: a distinctive spatial arrangement, proportions, material integration and aesthetic treatment.

Infringement turns on substantial similarity. The question is whether the overall impression of the later work, to an ordinary observer, reproduces the essence of the original. Courts must first filter out what cannot be claimed, such as features dictated by function or regulation, and then compare the creative core. This is why the most common defence, making minor modifications, rarely works if the fundamental expression remains recognizable. We would expect courts to apply the same approach to buildings.

Photography vs. Construction: Photographing a building is lawful, but building a copy from those photographs is reproduction. India's Copyright Act does not use the term "freedom of panorama", but *Section 52* permits the making and publishing of photographs and drawings of buildings, so

photographing publicly visible buildings is generally allowed.

Where Copyright Meets Design Law

Copyright is meant for art and design law is meant for mass production, and architecture sits awkwardly between them. Under *Section 15* of the Copyright Act, copyright ceases to exist in a design once it is registered under the Designs Act. Even if the design is unregistered, copyright ends once the design is capable of registration and has been applied to more than fifty articles by an industrial process. The purpose is to stop creators from using copyright, which lasts for the author's life plus sixty years, to get a far longer monopoly than the Designs Act allows.

A building constructed once is not a factory-made product, so *Section 15(2)* should not normally apply to it, and the architect's copyright stays safe. But many buildings now repeat the same design: 200 identical villas from one plan, prefabricated modules, standard facade panels. It is unclear whether these count as factory-made products, and we could not find an Indian court case that answers this. That creates risk on both sides. An architect who depends only on copyright could lose protection, and an accused copier could argue, "You repeated your design so many times that your copyright no longer applies." Until a court decides, careful architects should also register the repeating elements (a villa plan, a module, a panel design) as designs, so that they are protected either way.

Infringement, Misappropriation & Legal Disputes

One of the key challenges in addressing architectural piracy is its concealed nature. In architectural copyright disputes, one of the most common strategies used to avoid liability is introducing **minor modifications** to bypass the "substantial similarity" test. This test focuses not on isolated elements but on the **overall visual impression and compositional essence** of the work, making the assessment highly nuanced. As many architectural features are dictated by functional or regulatory requirements and cannot be exclusively claimed.

Taking the photograph is lawful but building a copy from them is a reproduction of the original work. **Freedom of Panorama** lets people photograph, film, or depict buildings and artworks that are permanently in public places. India's Copyright Act, 1957 doesn't use this term, but Section 52 gives similar protection through its exceptions. Photographing publicly visible buildings is generally allowed, and this applies to both personal and commercial use.

Buildings Cross Borders, Courts Do Not

Copyright is territorial. An Indian architect's copyright protects against infringement in India, but not automatically elsewhere. The Berne Convention, which expressly covers works of architecture, softens this through "national treatment" (Article 5(1)): foreign works get the same protection as domestic ones, with no registration required. TRIPS builds on Berne with enforcement standards, though it leaves out Berne's moral rights provision (Article 6bis). The WIPO Copyright Treaty extends protection to digital files such as CAD and BIM models. Even so, enforcing abroad still means suing in a foreign court, gathering evidence across borders and enforcing judgments, and the scope of protection varies from country to country.

Emerging Challenges in Architectural Copyright

AI-Generated Architecture and Unclear Authorship:

Copyright assumes a human author. For architectural works, the author is "the artist" under Section 2(d)(iii). The Act does have a provision for computer-generated works: Section 2(d)(vi) names "the person who causes the work to be created" as the author. But it was drafted long before generative AI, and it is unclear whether it covers a design an AI tool produces from a prompt.

Abroad, courts have been firm. In ***Thaler v. Perlmutter (D.C. Circuit, March 2025)***, the US Court of Appeals upheld the refusal to register an artwork created with no human involvement, holding that copyright requires human authorship. For India, the likely fix is legislative: a minimum standard of human creative contribution and clear default ownership rules where AI tools are used. Some argue that the combined gaps (hybrid, AI-assisted and

modular designs) justify a specialised, sui generis regime. Either way, the law needs to say more than it does today.

Need for sui generis or specialized protection mechanisms:

The Copyright Act, 1957 was not built for the hybrid nature of architecture, which combines artistic expression, functional utility, engineering constraints and, increasingly, AI-assisted input. Copyright protects expression but not functionality, while the Designs Act, 2000 covers only features applied to articles through industrial processes, leaving many large-scale structures and spatial compositions in a gap between the two. A sui generis or specialised regime could address hybrid designs, collaborative and AI-assisted creation, and partial or modular reproduction, with clearer ownership, more practical remedies and less ambiguity between overlapping laws.

Future Directions and Policy Recommendations

Going forward, addressing these challenges requires a more coherent and adaptive legal framework. Legislative clarity on AI authorship, refined standards for substantial similarity, and clearer boundaries between copyright and design law are essential to reduce ambiguity. Greater articulation of moral rights particularly in cases of alteration or demolition, must balance the architect's creative integrity with the rights of property owners. At the same time, the law must remain responsive to technological advancements such as BIM and digital design systems, while strengthening cross-border enforcement mechanisms. A forward-looking, balanced approach will be key to ensuring that architectural copyright continues to protect innovation without hindering practical development.

*[****Note:** Ms. Divya Sethi, co-author of this article, made a significant contribution during her internship at Dux-Legis Attorneys in the Trademark & Copyright Department. This article is a collaborative effort and represents one of her completed projects during her internship with the firm.]*

DUXLEGIS AT GRUR ANNUAL MEETING AND AIPPI WORLD CONGRESS 2026

Hamburg, Germany | 29 September – 10 October 2026



DuxLegis Attorneys continued its engagement with the international intellectual property community through the participation of its Managing Partner, **Divyendu Verma,** at two prominent IP gatherings held in Hamburg, Germany: the GRUR Annual Meeting 2026 (29 September–2 October) and the AIPPI World Congress 2026 (7–10 October).



The GRUR Annual Meeting brought together professionals working across intellectual property law, including patent, trademark, copyright and design protection, providing a valuable forum for professional exchange and discussion of current legal developments.



The AIPPI World Congress subsequently brought together the international IP community to discuss contemporary legal challenges, international harmonisation and developments in IP practice. Its programme addressed a broad range of issues, including patent law, trademark protection, copyright, design law and emerging questions in global IP enforcement.



For DuxLegis, participation in these international forums reflects the firm's continuing commitment to maintaining strong professional relationships across jurisdictions, exchanging perspectives on evolving IP laws and supporting clients whose intellectual property interests extend beyond national borders.

Beyond the formal programme, international IP gatherings offer an important opportunity to reconnect with colleagues, meet new professionals and strengthen relationships that support effective cross-border collaboration. These interactions are particularly valuable in an increasingly interconnected innovation ecosystem, where businesses require coordinated IP strategies across multiple markets.

DuxLegis Attorneys remains committed to connecting innovation, legal expertise and international collaboration - helping clients protect and grow their intellectual property in India and around the world.



DUXLEGIS PARTICIPATES IN NATIONAL SEMINAR ON COPYRIGHTS AT KBCNMU, JALGAON

DuxLegis Attorneys had the opportunity to participate in the one-day national seminar titled **"Copyrights: A Boon for Academia"** organised by the Intellectual Property Rights (IPR) Cell and the School of Chemical Sciences (SOCS), **Kavayitri Bahinabai Chaudhari North Maharashtra University (KBCNMU), Jalgaon,** on 29 September 2026 at the University's Senate Hall.

The seminar was presided over by the Hon'ble Vice-Chancellor, **Prof. Vijay L. Maheshwari,** with **Dr. Dinesh Patil,** Joint Controller General of Patents, Government of India, as the Chief Guest. The event featured insightful sessions by distinguished speakers, including Dr. Khushboo Bardiya Bhurat, Ms. Rati Rastogi and Mr. Kumar Raju, Assistant Controller, who discussed various aspects of copyright law and its relevance to academia and research.

Representing DuxLegis Attorneys (Nagpur Office), **Adv. Vikas Anil Awale,** IP Associate at DuxLegis Attorneys, delivered a lecture on **"Case Studies of Copyrights with Respect to Enforcement and Infringement."** His session explored the meaning and practical implications of copyright infringement, the legal remedies available to copyright owners, and the mechanisms for enforcing copyright protection. Particular emphasis was placed on Section 52 of the Copyright Act, 1957, and the principle of fair dealing, explaining the scope of permitted uses of copyrighted works. Through engaging case studies, particularly from the film and entertainment industry, he illustrated how copyright disputes arise and how legal principles are applied in practice.

The session also highlighted the importance of copyright protection for academicians, professors and researchers, emphasising the need to safeguard their original works while understanding the lawful use of copyrighted material for academic and research purposes. The use of practical examples made the session engaging and helped participants better understand the real-world application of copyright law.

The seminar provided a valuable platform for knowledge-sharing and interaction between legal professionals, academicians and students, fostering greater awareness of copyright protection and enforcement. DuxLegis Attorneys appreciates the opportunity to contribute to this academic initiative and engage with the university community on the evolving dimensions of intellectual property law.









IP SNIPPETS:

PATENT CASES

NOCIL LTD (Petitioner) vs FINORCHEM LTD AND ANR (Respondents)

CASE NO.: GA-COM/1/2024 In IP-COM/25/2024
DECIDED ON: 07th October 2026

The petitioner filed a suit against the respondent for patent infringement of petitioner's patent and breach of confidentiality. The petitioner alleged that respondent 2, a former employee who had been involved in developing proprietary manufacturing process of the said patent and had executed a non-disclosure agreement (NDA), joined respondent 1 (FINORCHEM LTD) after retirement and misused or disclosed the petitioner's confidential information and trade secret to facilitate the manufacturing of the same patented product. The petitioner further contended that the respondent's proposed manufacturing process was substantially similar to their patented processes and relied on the striking similarity between their environmental impact and risk assessment (EIRA) reports. The respondent 1 (FINORCHEM LTD) repeatedly changed its disclosed process to create an apparent distinction from the petitioner's patented processes and that respondent 2 had breached their contractual confidentiality obligations. The respondent 1 (FINORCHEM LTD) argued that the patent registration did not establish validity and it raised a credible challenge to the patent. Respondent 2 denied having access to or disclosing confidential technical information and contented that allegation against him were vague and speculative.

The Hon'ble Calcutta High Court observed that although patent registration does not automatically established validity, due weight must be given to long standing patents that had undergone examination and commercial exploitation. The Hon'ble Court found that the EIRA reports were virtually identical and that the respondent 1's (FINORCHEM LTD) disclosed process was sustainably similar to the petitioner's patented processes, with only minor and inconsequential differences. The respondent 1 (FINORCHEM LTD) also failed to raise a credible challenge to the validity of the patents. Further, the NDA specifically covered the 4-ADPA project, and the surrounding circumstances prima facie indicated a breach of confidentiality and misuse of trade secrets. The Hon'ble Court concluded by disposing the present suit and held that the petitioner had established a strong prima facia case, with the balance of convenience in its favour and a risk of irreparable injury if interim protection were denied.

GLISTEN LLC (Appellant) vs THE ASSISTANT CONTROLLER OF PATENTS & DESIGNS. (Respondent)

CASE NO.: C.A.(COMM.IPD-PAT) 21/2026 & I.A. 13012/2026
DECIDED ON: 01st October 2026

In the present case, the appellant filed an appeal against the respondent for rejecting the appellant's patent application for lack of inventive step under section 2(1) (ja) of the Act. The appellant contended that the impugned order violated the principle of natural justice, as the hearing notice confined the inventive step objection to Claim 18 which was subsequently withdrawn and did not specify any objection of inventive step against claims 1-17. The appellant argued that they (appellant)were not afforded an opportunity to address the ground ultimately relied upon for refusal. The respondent submitted that they (respondent) were empowered to examine all aspects of the application while passing the final order and maintained that the claimed invention lacked an inventive step.

The Hon'ble Delhi High Court observed that the controller's power under the Section 15 must be exercise in compliance with principle of natural justice and the Sections 14 and 80 of the Patent Act

1970. The Hon'ble Court emphasized that an applicant must be clearly informed of the objections relied upon for refusing a patent application and must be given a fair opportunity to respond. The Hon'ble Court noted that the hearing notice confined the inventive step objection to Claim 18, whereas the final refusal was based on the alleged lack of inventive step in Claims 1-17 in view of cited document. The Hon'ble Court further observed that the appellant had not been given an opportunity to address the alleged insufficiency of the wear-test data relied upon in assessing the unexpected technical effect. Accordingly, the Hon'ble Delhi High Court allowed the appeal and set aside the impugned order and directed the respondent to revive and restore the appellant's patent application for fresh consideration.

DR. ALOYS WOBBEN (Petitioner(s)) vs 1. INTELLECTUAL PROPERTY APPELLATE BOARD &ORS. (Respondents)

CASE NO.: WP No. 9729 of 2011 AND WP NO. 9730 OF 2011,WP NO. 9731 OF 2011,WP NO. 9732 OF 2011,WP NO. 9733 OF 2011,WP NO. 9734 OF 2011,WP NO. 9735 OF 2011,WP NO. 9736 OF 2011,WP NO. 9737 OF 2011,WP NO. 31136 OF 2013,WP NO. 31138 OF 2013,WP NO. 31139 OF 2013
DECIDED ON: 29th September 2026

The writ petitions were filed by the petitioner challenging the orders passed by the respondents concerning the revocation of the petitioner's patents and seeking their restoration to the register of patents. The petitioner sought to quash the impugned revocation orders and reinstate their patents, while the dispute concerning the validity of the Board of resolution of the respondent no. 2 was pending before the supreme court. During the proceedings, the petitioner submitted that the patents forming the subject matter of the writ petitions had expired and that nothing survived for further adjudication.

The Hon'ble Madras High Court the following matter and stated that in view of the expiry of the patents, no further orders were necessary in the writ petition. Further, considering that the related matter remained pending before the Supreme Court, the Hon'ble Court left it open to the petition and respondents to agitate their respective rights concerning the IPAB orders before the Supreme Court in the pending civil appeals. Accordingly, the Hon'ble Court concluded by dismissing writ petitions as infructuous, with no order as to costs.

IN RE EXORBITANT PRICING OF LIFE SAVING PATENTED MEDICINES (Petitioner) vs UNION OF INDIA &ORS. (Respondents)

CASE NO.: WP(C) NO. 18999 OF 2022
DECIDED ON: 28th September 2026

In the present case, the petitioner filed a writ petition against the respondent to seek government intervention under section 92 and 100 of the Patents Act, 1970, to make the patent cancer drug "Ribociclib" available at an affordable price. The petitioner contended that the exorbitant cost of the medicine compromised patient's access to life-saving treatment. The respondents argued that the section 100 was limited to government purposes, and the pharmaceutical companies emphasized the need to protect patent rights and substantial R&D investments.

The Hon'ble Kerala High Court observed that the "purpose of Government" under section 100 includes the use of patented invention to manufacture medicines and sell them to needy patients on a non-commercial basis, recognizing the state's duty to protect public health under article 47 of the constitution. The Hon'ble Court further held that "Ribociclib" and "Palbociclib" were not interchangeable for the relevant stages of breast cancer. Accordingly, the Hon'ble Court disposed of the writ petition without mandating invocation of section 100, leaving the decision to the central government after collecting the necessary data and accessing the affordability of the medicine.

PANACEA BIOTEC LIMITED (Petitioner) vs THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND TRADE MARKS & ORS. (Respondents)

CASE NO.: W.P.(C)-IPD 17/2026 & CM 99/2026
DECIDED ON: 18th September 2026

The petitioner challenged the order concerning the subject patent seeking permission to withdraw its form 13 application for amendment of claims and to proceed with the pending post-grant oppositions under section 25(2) of the Patents Act, 1970, on the basis of original granted claims. The respondent passed an impugned order rejecting the permission to withdraw its form 13.

The Hon'ble Delhi High Court permitted to withdraw its amendment application filed under section 57 of the Patents Act, 1970. The Hon'ble Court allowed the writ petition and directed the respondent to decide the pending post-grant oppositions and other pending applications.

ITC LIMITED (Appellant) vs PHILIP MORRIS PRODUCTS S.A. & ORS. (Respondents)

CASE NO.: C.A.(COMM.IPD-PAT) 24/2025 and I.A. 7074/2026
DECIDED ON: 10th September 2026

In the present appeal, the appellant challenged the rejection of its post-grant opposition against the respondent's patent alleging lack of novelty, inventive step and procedural irregularities in the opposition proceedings. The opposition Board had rejected the appellant's objections and found the respondent's invention to be novel and inventive. The appellant argued that the claimed features of the respondent's patent were disclosed in the prior art documents. The respondent maintained that the features of their patent was not disclosed in the prior art documents cited by the appellant.

The Hon'ble Delhi High Court analyzed the following matter that the features of the respondent's patent were not disclosed in the cited prior art documents. The Hon'ble Court stated that the cited prior-art documents did not provide sufficient motivation for a skilled person to arrive at the claimed invention. Accordingly, the Hon'ble Court dismissed the appellant's appeal and writ petition, leaving the patent in favour of the respondent.

PHILLIP MORRIS PRODUCTS S. A. (Appellant) vs ASSISTANT CONTROLLER OF PATENTS AND DESIGNS (Respondents)

CASE NO.: C.A.(COMM.IPD-PAT) 29/2025
DECIDED ON: 09th September 2026

In the present case the appellant filed an appeal against the impugned order passed by the respondent refusing the appellant's patent application on the ground of lack of inventive step under section 2(1)(j) and non-patentability under Section 3(b) and (e) of 1970 Act. The Appellant contends that the impugned order violated the principles of natural justice, as the respondents relied on several reports that had not been disclosed in either the First Examination Report (FER) or in the hearing notice, depriving them (appellant) of an opportunity to respond. The appellant further argued that the respondent failed to properly assess inventive step by explaining how the cited prior-art documents could be combined to arrive at the claimed invention, overlooked the synergistic effect of the claimed composition, and relied on prior-art documents published several decades earlier. The respondent maintained that the refusal was correctly justified on the grounds of lack of inventive step and non-patentability.

The Hon'ble Delhi High Court noted that the respondent violated the principles of natural justice by introducing new reference reports in the impugned order without giving the appellant an opportunity to respond. The Hon'ble Court stated that merely citing prior-art documents was insufficient, the decision must explain how the cited teachings would motivate a person skilled in the art to arrive at the claimed invention. Further, the objection under Section 3(b) could not be based merely on the invention's association with tobacco or nicotine, without an objective assessment supported by scientific or technical evidence. The Hon'ble Court concluded by allowing the present appeal and setting aside the impugned order and remanded the appellant's patent application for fresh consideration.

ADELTA OPTEC (Petitioner) vs UNION OF INDIA & ORS. (Respondents)

CASE NO.: W.P.(C)-IPD 39/2026
DECIDED ON: 07th September 2026

The petitioner filed a write petition seeking directions from the respondents to issue a hearing notice under section 14 of the Patents Act, 1970 and accordingly grant a hearing in respect of petitioner's patent application which had been pending since 2022, along with a pre-grant opposition pending against the application.

The Hon'ble Delhi High Court observed the present matter and directed the respondents to issue a hearing notice to the petitioner within four weeks and to decide their patent application within eight weeks after duly considering the pre-grant opposition. The Hon'ble Court concluded by disposing off the present petition.

M/S. ARUNACHALAA ENTERPRISES (Petitioner) vs 1. M/s. R. Sukumar, Proprietor 2. M/S. THE OFFICE OF THE CONTROLLER GENERAL OF PATENTS (Respondents)

CASE NO.: W.P.(C)-IPD 39/2026
DECIDED ON: 07th September 2026

In the present petition, the petitioner filed a review petition seeking reconsideration of its order which had directed the transfer of a patent infringement suit pending before the District Court to be heard along with an independent patent revocation petition. The petitioner contended that the defendant had not filed a counterclaim seeking revocation of the patent in the infringement suit, so the transfer was legally impermissible and constitute a material error on the face of the record. The respondents opposed the review petition, arguing that no such error existed and that the Hon'ble Court had jurisdiction to transfer the infringement suit for joint adjudication with the revocation petition.

The Hon'ble Madras High Court observed that the section 64 of the Patents Act, 1970 permits to seek revocation either through an independent revocation petition or by way of a counterclaim in an infringement suit and that this statutory right cannot be curtailed by compelling a litigant to adopt only one mode of revocation. The Hon'ble Court further held that transferring the infringement suit to the High Court for joint consideration with the pending revocation petition would avoid parallel proceedings and serve the interests of justice. The Hon'ble Court found no material error on the face of record warranting review and further concluded by dismissing the review petition.

TRADEMARK CASES

H.RAJAGOPLAN (Petitioner) vs THE REGISTRAR OF TRADE MARKS AND K. HARIHARAN (Respondents)

CASE NO.: WP(IPD) No. 26 of 2026
DECIDED ON: 30th September 2026

In the present case, the Petitioner filed a writ petition seeking a Writ of Mandamus directing 1st respondent to transfer Rectification No. 268705, filed

against the 2nd Respondent's trademark Application to the IP Division of the Madras High Court. The Petitioner's family has run the **"Sri Mangalambika Vilas Coffee Hotel"** at Kumbakonam since 1914. He alleged that the 2nd Respondent, who was entrusted with looking after the hotel in his absence, started a separate hotel and obtained registration of a similar device mark. The 2nd Respondent objected to the maintainability of the writ, contending that no order or refusal of the Registrar was challenged, that the Petitioner ought to have invoked Section 24 CPC, and that no prior demand was made to the Registrar, which is a pre-requisite for a mandamus.

The Hon'ble Madras High Court observed that since the rectification was filed before the suit, Section 125(1) of the Trademarks Act has no application and the case falls under Section 125(2), which permits the Registrar to refer a pending rectification to the High Court at any stage. Section 24 CPC governs transfer between Courts and not a statutory proceeding before the Registrar. The Hon'ble Court held that the absence of prior demand was only a rule of practice, whose purpose was served as the Registrar was impleaded and represented, and that further delay would result in a matter pending since 2020. Accordingly, the Hon'ble Madras High Court allowed the writ petition in favour of the Petitioner and directed the Registrar to transfer Rectification No. 268705, with entire records, to the IP Division within four weeks. The rectification is to be decided independently on its own merits, uninfluenced by the observations in this order.

ONESTO LABS PRIVATE LIMITED (Plaintiff) vs ASHOK KUMAR & ORS. (Defendants)

CASE NO.: CS(COMM)1287/2025, I.A. 30259/2025 & I.A. 22384/2026
DECIDED ON: 28th September 2026

In the present case, the Plaintiff, which sells personal care products under its house mark **"Innovist"** and the registered mark **"CHEMIST AT PLAY/** Chemist at Play **"**,

filed a suit seeking a permanent injunction against infringement of its trade mark, logo, trade dress and and domain name, and against passing off. The suit was filed on a John Doe basis against the operators of the impugned website www.chemistatplay.com, which was imitating the Plaintiff's mark and its official website www.chemistatplay.in.

The Hon'ble Delhi High Court noted that, since Defendant No. 4 had agreed to transfer the domain name, it could be directed to do so, and that there was no contest to the suit by Defendant No. 1. Accordingly, the Hon'ble Delhi High Court directed Defendant No. 4 to transfer the domain name www.chemistatplay.com to the Plaintiff within four weeks of the Plaintiff providing its account information and completing the formalities. Defendant No. 4 was deleted from the array of parties. The interim injunction dated 04.12.2025 was made absolute and the suit was decreed in favour of the Plaintiff against Defendant No. 1.

TOPLAND ENGINES PRIVATE LIMITED (Petitioner) vs TOPLAD PRIVATE LIMITED & ANR. (Respondents)

CASE NO.: W.P.(C) 9341/2023
DECIDED ON: 25th September 2026

In the present case, the Petitioner owning the registered trademark **"TOPLAND"**, filed a writ petition challenging the order dated 15.05.2023 of Respondent No. 2, which rejected its application seeking a direction to Respondent No. 1 to change its name **"TOPLAD"**. The Petitioner contended that **"TOPLAD"**, when seen as a whole, too nearly resembles its registered trademark **"TOPLAND"**. Respondent No. 2 contended that the names must be compared as a whole, that **"TOP"** is common and cannot be monopolised, that **"LAND"** and **"LAD"** are distinct words, and that the parties' businesses are different, so there is no likelihood of deception.

The Delhi High Court clarified that Section 16 sets a stricter standard than usual trademark disputes. If a name is identical or very similar to a registered trademark, that alone is enough, and it is not necessary to prove prove that anyone is likely to be confused or deceived. Splitting **"TOPLAND"** and

"TOPLAD" into separate parts was inaccurate, as the names must be compared as a whole. The difference in the nature of the parties' businesses was therefore not relevant. Accordingly, the Hon'ble Delhi High Court allowed the petition in favour of the Petitioner, set aside the impugned order, and directed Respondent No. 1 to change its name from **"TOPLAD PRIVATE LIMITED"** to any name not resembling **"TOPLAND".**

COPYRIGHT CASES

MRS. SHAKTI SAGAR (Plaintiff) vs THE DELHI LAW HOUSE AND OTHERS (Defendants)

CASE NO.: WP(IPD) No. 26 of 2026
DECIDED ON: 07th October 2026

In the present case, the Plaintiff filed a suit against Defendant Nos. 1 to 4 seeking an interim injunction restraining them from publishing, selling, or dealing in 47 literary titles in which she claimed copyright, along with relief against passing off. She alleged that Defendant Nos. 1 to 4, running **"The Delhi Law House (TDLH) "**, were selling her titles without a licence and diverting the business of the family firm **"Delhi Law House (DLH)".** Defendant Nos. 1 to 4 contended that the Plaintiff is not the author, that no written assignment from any author was produced, that the Wills were disputed and unproved, and that the Plaintiff had no goodwill of her own.

The Hon'ble Delhi High Court observed that the author is the first owner of copyright, and any other person can derive title only through a written assignment signed by the owner. The Plaintiff did not disclose how the root of title passed from the authors to her father-in-law, and no assignment by any author was placed on record. A claim resting on disputed testamentary documents, with the root of title undisclosed, does not establish a prima facie right. Accordingly, no prima facie case of passing off was made out the Hon'ble Delhi High Court dismissed the application for interim injunction, holding that the Plaintiff failed to satisfy the trinity test, while clarifying that the observations are only prima facie and the issues of authorship, assignment and validity of the Wills are left open for trial.

JAPAN TOBACCO INC AND ANR (Petitioners) vs THE CENTRAL WEARHOUSE AND ANR (Respondents)

CASE NO.: C.O.(COMM.IPD-CR) 814/2022
DECIDED ON: 05th October 2026

In the present case, the Petitioners filed a petition seeking rectification of the entry in the Register of Copyrights with respect to the copyright registration for the Artistic Work " ". The Petitioners alleged that the registered work was merely a copy of their prior **"CAMEL,** , , etc." artworks and trademarks, superimposed to create the impugned work. They claimed that the registration was wrongly made and remained on the Register, and that they were "persons aggrieved".

Respondent No. 1 contended that it had adopted and first published the *"CAMEL COLLECTION"* label in 1992 and held various registrations for it. It argued that the Petitioners had never sold garments in India under the mark, had exited the Indian market in 2011 and were not "persons aggrieved".

The Hon'ble Delhi High Court observed that the main question in a copyright dispute is whether the work is an original artistic work, and the person claiming copyright must prove that they are its "First Owner." The Hon'ble Court held that having a trademark registration may add some credibility, but it is not enough to prove first ownership of the copyright in the artwork. Section 17 of the Act does not presume first ownership, so it must be proved as a fact. Accordingly, the Hon'ble Delhi High Court held that the Petitioners failed to prove that they were the *"First Owner"* of the original artistic work in **"CAMEL" or "CAMEL COLLECTION"** and dismissed the petition. Respondent No. 1's copyright registration therefore remains on the Register.

M/S. VIANET PVT. LTD. & ANR. AND M/S. SHUBHAM AUDIO VIDEO PVT. LTD. (Plaintiffs) vs SH. MEHMOOD HASAN AND ORS. (Defendants)

CASE NO.: CS(COMM) NO. 558/2022
DECIDED ON: 30th September 2026

In the present case, the Plaintiffs filed a suit for permanent injunction against the Defendants for alleged infringement and passing off of their copyright in three songs, ***"Patthar Ke Sanam," "Wo Aata Hoga"*** and ***"Tum Mere Baad Mohabbat Ko."*** The Plaintiffs alleged that Defendant No. 1 was uploading and monetising these songs on his YouTube channels, ***"Golden Eye True"*** and ***"Golden Eye Studio"***. They claimed exclusive rights under a License Agreement with the Defendant No. 3. Defendant No. 1 contended that he was the sole owner of the songs. He relied on prior recording and release of the songs on YouTube, and on written agreements.

The Hon'ble Commercial Court of Karkardooma, Delhi observed that a copyright registration certificate is only *prima facie* evidence of ownership. It is not conclusive proof, and it can be challenged by showing that the work was created or published earlier. The Hon'ble Court noted that Defendant No. 1 had released all three songs on YouTube before the Plaintiffs did. The Hon'ble Court held that Defendant No. 1's agreements were valid even though they were notarised only in 2021. Section 19 of the Copyright Act requires an assignment to be in writing and signed, not notarised or registered. It further noted that the singer and the lyricist had signed documents in favour of both the Plaintiffs and Defendant No. 1 and had not respected the IPR in their own work. The Hon'ble Court also observed that when an assignment agreement does not state a time period, Section 19(5) treats it as valid for five years only. Since this period has ended for the agreements of both the Plaintiffs and Defendant No. 1, neither side is currently the rightful owner of the songs. They would need fresh assignments from the original authors. Accordingly, the Hon'ble Commercial Court ruled in favour of Defendant No. 1 and dismissed the suit with no order as to costs. The Plaintiffs did not get an injunction, takedown of the songs, delivery up or damages.

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

Editor in Chief	Sub - Editor	Content Editor	Designer
Divyendu Verma	Priti More	Sahana Mabian	Namrata Thakur

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This Newsletter is published by DuxLegis Attorneys from 902, Kamdhenu Commerz, Sector 14, Kharghar, Navi Mumbai, Maharashtra, India on 05 November, 2026.