

Legal Issues in 'IP Enforcement'

Topic: Can a court extend injunctions to new parties after passing a final decree under the Code of Civil Procedure, 1908?

Relevant Legal Provisions

❖ *Section 151 of Code of Civil Procedure, 1908*

Saving of inherent powers of Court

- (1) “Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.”*

Relevant Legal Provisions (Contd.)

❖ *Order 7 Rule 7 of Code of Civil Procedure, 1908*

Relief to be specifically stated

“Every plaint shall state specifically the relief which the plaintiff claims either simply or in the alternative, and it shall not be necessary to ask for general or other relief which may always be given as the Court may think just to the same extent as if it had been asked for. And the same rule shall apply to any relief claimed by the defendant in his written statement.”

Relevant Legal Provisions (Cont.)

❖ *Order 1, Rule 10 of Code of Civil Procedure, 1908*

Suit in name of wrong plaintiff

“(1) Where a suit has been instituted in the name of the wrong person as plaintiff or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may at any stage of the suit, if satisfied that the suit has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person to be substituted or added as plaintiff upon such terms as the Court thinks just.”

Relevant Judicial Decisions (Contd.)

❖ ***Dwaraka Das vs State Of Madhya Pradesh And Anr (10.02.1999, SC), AIR 1999 SUPREME COURT 1031 (Division Judge bench)***

“Section 152 C.P.C. provides for correction of clerical arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. The exercise of this power contemplates the correction of mistakes by the Court of its ministerial actions and does not contemplate of passing effective judicial orders after the judgment, decree or order. The settled position of law is that after the passing of the judgment, decree or order, court or the tribunal becomes functus officio and thus being not entitled to vary the terms of the judgments, decrees and orders earlier passed. The correction contemplated are of correcting only accidental omission or mistakes and not all omissions and mistakes which might have been committed by the Court while passing the judgment, decree or order. The omission sought to be corrected which goes to the merits of the case is beyond the scope of Section 152 for which the proper remedy for the aggrieved party is to file appeal or review application. It implies that the Section cannot be pressed into service to correct an omission which is intentional, how erroneous that may be. It has been noticed that the courts below have been liberally construing and applying the province of Sections 151 and 152 of the CPC even after passing of effective order in the Us pending before them.”
(Emphasis Supplied)

Relevant Judicial Decisions (Contd.)

- ❖ *Dwaraka Das vs State Of Madhya Pradesh And Anr (10.02.1999, SC), AIR 1999 SUPREME COURT 1031 (Division Judge bench)*

“No Court can under the cover of the aforesaid sections modify, alter or add to the terms of its original judgment, decree or order. In the instant case, the trial court had specifically held the respondents-State liable to pay future interest only despite the prayer of the appellant for grant of interest with effect from the date of alleged breach which impliedly meant that the court had rejected the claim of the appellant in so far as pendente lite interest was concerned. The omission in not granting the pendente lite interest could not be held to be accidental omission or mistake as was wrongly done by the trial court vide order dated 30th November, 1973. The High Court was, therefore, justified in setting aside the aforesaid order by accepting the revision petition filed by the State.”

Relevant Judicial Decisions (Contd.)

❖ *Universal City Studios Llc. & Ors. vs Mixdrop.Co & Ors. (02.05.2023- Del HC), CS(COMM) 724 of 2017 (Bench - Single Judge bench)*

“35 Piracy through Cyberlockers is swift and dealing with that is challenging. As per Plaintiffs' contentions, it is anticipated that Defendants No. 1 to 13 will re-emerge with mirror websites, redirect pages, or websites featuring variations using alphanumeric characters. This is not a hypothetical proposition, but a hard reality. Once a film is uploaded to a Cyberlocker website, it can be shared and downloaded by numerous users in a matter of minutes or hours, leading to widespread infringement before effective countermeasures can be implemented. To avoid burdening the Court with the constant monitoring of such websites, Plaintiffs are permitted to implead mirror/redirect/alphanumeric variation websites which provide access to the same websites/ services of Defendants Nos. 1 to 13 that have been injuncted, by filing an appropriate application under Order I Rule 10 of the CPC, supported by affidavits and evidence, in terms of the decision of this Court in UTV Software Communication Ltd. & Anr. v. 1337x.to and Ors.³ Such application shall be listed before the Joint Registrar, who on being satisfied with the material placed on record, shall issue directions to disable access to such mirror/redirect/alphanumeric websites in India.” (Emphasis Supplied)

Relevant Judicial Decisions

- ❖ *UTV Software Communication Ltd. And Ors vs 1337X.To And Ors. . (10.04.2019- Del HC), AIRONLINE 2019 DEL 773- (Single Judge bench)*

“99 this Court in exercise of its inherent power under Section 151 CPC permits the plaintiffs to implead the mirror/redirect/alphanumeric websites under Order I Rule 10 CPC as these websites merely provide access to the same websites which are the subject of the main injunction.

100- It is desirable that the Court is freed from constantly monitoring and adjudicating the issue of mirror/redirect/alphanumeric websites and also that the plaintiffs are not burdened with filing fresh suits. However, it is not disputed that given the wide ramifications of site-wide blocking orders, there has to be judicial scrutiny of such directions and that ISPs ought not to be tasked with the role of arbiters, contrary to their strictly passive and neutral role as intermediaries.” (Emphasis Supplied)

Relevant Judicial Decisions

- ❖ *Utv Software Communication Ltd. And Ors vs 1337X.To And Ors. . (10.04.2019- Del HC), AIRONLINE 2019 DEL 773- (Single Judge bench)*

“101 Consequently, along with the Order I Rule 10 application for impleadment, the plaintiffs shall file an affidavit confirming that the newly impleaded website is a mirror/redirect/alphanumeric website with sufficient supporting evidence. On being satisfied that the impugned website is indeed a mirror/redirect/alphanumeric website of injuncted Rogue Website(s) and merely provides new means of accessing the same primary infringing website, the Joint Registrar shall issue directions to ISPs to disable access in India to such mirror/redirect/alphanumeric websites in terms of the orders passed.”

Relevant Judicial Decisions (Contd.)

- ❖ *Telecom Watchdog Through Its Secretary vs Union Of India Through Its Secretary (05.12.2025, Del HC) W.P.(C) 10621/2020 (Single Judge bench)*

“14 (C) As a matter of fact, the relief being sought by moving the instant miscellaneous application is for quashing the FIR itself for which appropriate recourse available to the petitioner is to invoke the jurisdiction of this Court under Article 226 of the Constitution of India or under Section 482 of the CrPC/528 of the BNSS. Instead of instituting fresh proceedings, the instant miscellaneous application has been moved in a writ petition, which stood disposed of way back on 09.08.2024 and, therefore, keeping in view the law pertaining to the doctrine of functus officio as discussed above, we have no hesitation to hold that the instant miscellaneous application is not maintainable.”

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Relevant Judicial Decisions (Contd.)

- ❖ *Mahindra And Mahindra Limited & Anr vs Diksha Sharma Proprietor Of Mahindra (16.03.2026, Del HC) CS(COMM) 209/2023 (Single Judge bench)*

“21. How this gathers relevance in the present situation is that the prayers sought by the plaintiffs are to be acted upon after the pronouncement of judgment and post the Court becoming "functus officio". Two things emerge, the ratio laid down by the above referred judgments clearly postulate that the only manner provided to the Court, which has pronounced the judgment, to revive its power to consider the judgment so pronounced is, when either of the parties file (a) an application for review of the judgment or; (b) when an application under Section 152, CPC is preferred to the limited purposes mentioned therein; and “

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Relevant Judicial Decisions (Contd.)

- ❖ *Mahindra And Mahindra Limited & Anr vs Diksha Sharma Proprietor Of Mahindra (16.03.2026, Del HC) CS(COMM) 209/2023 (Single Judge bench) (CONTD.)*

“21..(once the Court pronounces the judgment and it becomes "functus officio", it cannot exercise any jurisdiction over such matter, except for the aforementioned limited purposes. If that be so, then the question of a Court, which has itself become "functus officio", granting any power to a learned Joint Registrar (Judicial), who is only a Principal Officer of the Court to not only implead a party to the already decided and disposed of suit, but also to extend the interim order of injunction against such party is completely contrary to and principally against the very tenets of civil jurisprudence. Once the Court itself is denuded of its power to reopen or introduce any new issue having become "functus officio", it is beyond comprehension as to how such power can be conferred or vested upon the Principal Officer of the Court who is surely not equal or even equivalent to the Court itself..” (Emphasis Supplied)

Relevant Judicial Decisions (Contd.)

❖ **Mahindra And Mahindra Limited & Anr vs Diksha Sharma Proprietor Of Mahindra (16.03.2026, Del HC) CS(COMM) 209/2023 (Single Judge bench) (CONTD.)**

22. *Another view could also be as to whether the lis would ever come to an end. In the manner proposed by learned counsel for the plaintiff, the suit would always be "alive" even after the judgment is pronounced or the decree is drawn up. A successful party can revive the suit even after a passage of long time. This would draw curtains upon the doctrine of finality attached to any legal proceedings.*

23. *With great respect and humility, in view of various pronouncements of the Apex Court as discussed above, I am unable to subscribe to the view taken in UTV Software (supra) and Universal City Studios LLC (supra) limited only in respect of the actions which could be taken by the plaintiff; and the right, authority and jurisdiction of the learned Joint Registrar (Judicial) to take up, adjudicate and implead a party in the first place; and further have any power at all to extend the dynamic injunction granted while the suit was subsisting, in the second; and all this, after the judgment is pronounced. It is made clear that the present examination is limited only to the post pronouncement of judgment exercise of powers by the learned Joint Registrar (Judicial) of this Court. (Emphasis Supplied)*

Relevant Judicial Decisions (Contd.)

- ❖ *Mahindra And Mahindra Limited & Anr vs Diksha Sharma Proprietor Of Mahindra (16.03.2026, Del HC) CS(COMM) 209/2023 (Single Judge bench) (CONTD.)*

“24. Another very relevant, yet, fundamental issue would be to consider and appreciate that the interim order of any nature, particularly, an interim injunction order finally merges and subsumes itself in the final judgment and decree, and thus, does not exist independently for any authority, muchless a learned Joint Registrar (Judicial) to exercise any jurisdiction at all. Wherefrom such power or jurisdiction is conferred or vested upon the Principal Officer of the Court, that too, post pronouncement of the judgment, is unknown and surely cannot be traced to any provision in the CPC. Section 151 of the CPC is also envisaged and postulated during the subsistence of a suit. The jurisdiction to entertain any application even under Section 151, CPC, is clearly proscribed by the Supreme Court in Dwaraka Das (supra). Thus, even the Court cannot exercise any such power after pronouncement of the final judgment and decree and is limited in its very jurisdiction only to review of the judgment or correction of errors falling within Section 152, CPC alone. If the Court itself is denuded of any such power, the question of conferring or vesting such power on a persona non grata is fundamentally not available.”
(Emphasis Supplied)

Conclusion

- ❖ The ruling reinforces the doctrine of *functus officio*, limiting post-decree judicial intervention strictly to review or clerical corrections.
- ❖ It marks a clear departure from the dynamic injunction framework developed in earlier Delhi High Court jurisprudence.
- ❖ Enforcement against mirror/redirect rogue websites may now require initiating formal execution proceedings, increasing time and cost burdens.
- ❖ The judgment underscores an urgent need for legislative intervention to balance procedural finality with effective IP enforcement in the digital ecosystem.
- ❖ While legally sound on procedural principles, the ruling risks weakening practical IP enforcement, and a calibrated framework (judicial or legislative) is necessary to preserve the utility of dynamic injunctions against evolving online infringement.

Thank you!
Questions?

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