

Special Legal Issues Seminar Series

**Topic: Year In Review – Notable IP Division Judgments and Developments:
Quarter 3 (July to September 2026)**

❖ **Facts:**

- The Appellant, Columbia Pictures, had used GHOSTBUSTERS in connection with its film franchise since 1984. The first film was released in India in 1985, and the franchise later grew through sequels, television productions, streaming, merchandise and further film releases. Columbia Pictures also held Indian registrations for GHOSTBUSTERS in Classes 09 and 41 with user claim since 1985, and later in classes 25 and 28.
- Respondent No. 2 applied on 1 December 2020 to register GHOST BUSTER in Class 05 on a proposed to be used basis. Columbia Pictures opposed the application.
- The Registrar rejected the opposition, on the basis that Columbia Pictures had no registration or demonstrated use in Class 05, the goods were dissimilar, and that Respondent No. 2's adoption of "GHOST" was inspired by ghost peaks appearing during chromatography and 'BUSTER' described the product's function of removing impurities responsible for those peaks. Columbia Pictures appealed to the Delhi High Court.

❖ **Held:**

- The Court held that Section 11(2) did not require an earlier trademark to have already been formally declared a well known trademark under Rule 124. Explanation (b) to Section 11 defines an "earlier trademark" as one entitled to protection as a well-known mark. The Court interpreted "entitled" to mean qualifying for protection, not requiring prior formal declaration.
- The Court clarified that Registrar is empowered to determine well-known status during opposition proceedings by considering factors under Sections 11(6) and 11(7).

❖ **Facts:**

- The Petitioner was the registered proprietor of the trademark HMP in Class 9, registered with effect from December 21, 1998, and subsequently renewed until December 21, 2015.
- Upon discovering in June 2025 that the registration was liable to be removed for non-renewal, the Petitioner filed Form TM-R along with the prescribed fee. However, the Trade Marks Registry rejected the renewal request, stating that a statutory notice in Form O-3 had been issued to the Petitioner's earlier attorney in September 2015 and that the renewal period had expired.
- The Petitioner challenged the rejection, contending that no statutory notice of expiry had been served upon him.

❖ **Held:**

- The Court held that under Section 25(3) of the Trade Marks Act, 1999, read with Rule 64(1) of the Trade Marks Rules, 2002, the Registrar is required to issue the prescribed notice to the registered proprietor before removing a trademark for non-renewal.
- The Registry failed to produce reliable evidence establishing that the Form O-3 notice had actually been dispatched to the Petitioner. The mere existence of the notice in the Registry's records was insufficient to establish compliance with the statutory requirement.
- Accordingly, the Court allowed the petition and permitted the Petitioner to file a fresh renewal application within two weeks, directing the Registry to accept and process the same in accordance with the Rules.

M/S. Sal Silks (Kalamandir) Limited vs Skp B Gopinath Private Limited, C.M.A. No. 441 of 2025 | High Court of Telangana | Moushumi Bhattacharya, J. & Renuka Yara, J | September 8, 2026

❖ Facts:

- Sai Silks (Kalamandir) Limited appealed against a common order of the II Additional Chief Judge, City Civil Court, Hyderabad, dismissing its applications for appointment of a Local Commissioner and an ex parte ad interim injunction against the use of “Kanchipuram Varahi Lakshmi Silks,” which it alleged was deceptively similar to its registered marks “Kancheepuram Vara Mahalakshmi Silks” and “Vara Mahalakshmi.”



❖ Held:

- The Division Bench upheld the dismissal, reasoning that “Kancheepuram” is a geographical term denoting a city already recognised as a Geographical Indication for its silk sarees, while “Vara Mahalakshmi” is a common Sanskrit reference to Goddess Lakshmi, so that under Section 17(2)(b) of the Trade Marks Act, 1999 the appellant could claim no exclusive right over either word within its composite label mark.
- Finding no single dominant or distinctive feature in the appellant’s mark, and noting that saree purchases are typically planned, the Bench held that the traditional test of an average consumer with imperfect recollection should give way to that of a perceptive, informed consumer unlikely to confuse the two shops. The appeal was accordingly dismissed with no order as to costs.

❖ **Facts:**

- The dispute arose in an application seeking refund of court fees following an amicable settlement between the parties.
- During the proceedings, the Court took note of the amendment to Section 16 of the Court Fees Act, 1870, introduced by the Government of NCT of Delhi through a notification dated March 6, 2026.
- The amended provision entitled parties to a full refund of court fees where a suit or appeal was disposed of on the basis of an amicable settlement, irrespective of whether the settlement was reached through court intervention or alternative dispute resolution mechanisms.

❖ **Held:**

- The Court held that under the amended Section 16 of the Court Fees Act, 1870, refund of the full court fee is a substantive statutory entitlement where a suit or appeal is disposed of through an amicable settlement, whether reached with or without court intervention or recourse to alternative dispute resolution.
- The Court clarified that no separate application for refund is necessary. Courts must direct refund of court fees and issue the requisite certificate while disposing of settled matters.
- The Court further directed the Government of NCT of Delhi to establish administrative measures for time-bound refunds and ordered circulation of its directions to all Principal District and Sessions Judges in Delhi.

❖ **Facts:**

- AGH owned the building in which the Welcomgroup Park Sheraton Hotel was set up under an Operating Service Agreement with ITC in 1985. On 14 April 1989, a South Indian restaurant named Dakshin started operating in the hotel. The restaurant continued under the agreement until the agreement expired on 31 March 2015.
- After the agreement ended, ITC withdrew from the hotel. AGH continued to run the Dakshin restaurant in the same premises, which later became Crowne Plaza Chennai Adyar Park. The judgment recorded that ITC did not object to AGH's use of the DAKSHIN mark for that restaurant until 2023. After the building was demolished in 2024, AGH opened another restaurant under the DAKSHIN name on the same road. ITC then filed a suit and sought an interim injunction against AGH's use of the mark and logo.
- ITC relied on trademark infringement, passing off, and copyright infringement. AGH resisted the injunction by relying on its own registration for DAKSHIN, its long use of the mark, ITC's silence, and the absence of documents proving ITC's ownership of copyright in the logo. The Single Judge refused interim injunction. The Division Bench agreed that no interim injunction could be granted, though it differed from the Single Judge on territorial jurisdiction.

❖ **Held:**

- The Court held that where both parties are registered proprietors of identical or similar marks, an action for trademark infringement is barred under Sections 28(3) and 30(2)(e) of the Trademarks Act. However, a passing off action may still lie against a registered proprietor.
- Since ITC did not object AGH's use of the DAKSHIN mark from 2015 until 2023, despite being aware of such use, the Court held that this silence amounts to acquiescence and weighed heavily against granting an interim injunction and attracted the bar under Section 33(1) of the Trademarks Act.
- At the interim stage, the Court held that the Operating Service Agreement did not establish that goodwill in the DAKSHIN mark vested exclusively in ITC. Prima facie, AGH was also entitled to the goodwill generated during the subsistence of the agreement, having financed and operated the hotel business.

More Than Water Private Limited v. NESCO Limited, FAO(OS) (COMM) 123/2026 | High Court of Delhi | V. Kameswar Rao, J & Manmeet Pritam Singh Arora, J | July 1, 2026

❖ Facts:

- More Than Water Private Limited claimed prior adoption and use of the marks WATERBOX, WATERBOX IS THE RIGHT CHOICE and MORE THAN WATERBOX for packaged drinking water, tracing its rights to its predecessor since 2018. In January 2026, it discovered that Nesco Limited had obtained registration for MY WATER BOX in Class 32, claiming use since October 2020. Alleging deceptive similarity in the competing marks and packaging, More Than Water instituted a passing-off suit seeking an interim injunction. The Single Judge declined an absolute injunction for lack of prima facie goodwill and reputation but restricted both parties' operations to their respective states. Both parties challenged the order.

❖ Held:

- The Court upheld the refusal of an interim injunction, finding that More Than Water had failed to establish sufficient goodwill and reputation. Its reliance on prima facie manipulated invoices and concealment of the rejection of its Central FSSAI licence application further disentitled it from discretionary relief.
- The Court also found that Nesco had relied on apparently fabricated photographs and unreliable invoices to obtain its trademark registration. Consequently, Nesco was restrained from relying on the registration against third parties until the authenticity of these documents was established at trial.
- The Court emphasized that parties seeking equitable relief must approach the Court with clean hands and that fabricated evidence could attract cancellation of registration and perjury proceedings. It also vacated the territorial restrictions imposed on both parties, while leaving the issues of deceptive similarity and goodwill for trial.

**More Than Water Private Limited v. NESCO Limited, FAO(OS) (COMM) 123/2026 | High Court of Delhi
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TRADE DRESS OF THE APPELLANT'S PRODUCT	TRADE DRESS OF THE RESPONDENT'S PRODUCT
	
	

Appellant's mark	Respondent's mark
WATERBOX MORE THAN WATERBOX  WATERBOX IS THE RIGHT CHOICE 	  MY WATER BOX

Hindustan Unilever Limited v. Kwick Living (I) Private Limited, CS(COMM) 904/2026 & I.A. 22515/2026 **| High Court of Delhi | Anup Jairam Bhambhani, J. | August 25, 2026**

❖ **Facts:**

- Hindustan Unilever Limited (HUL) filed a suit against Kwick Living seeking an injunction against its advertising campaign titled “War on What's Hidden”, alleging that it made misleading and disparaging claims concerning HUL's VIM and SURF EXCEL products. The campaign was disseminated through social media platforms, websites and outdoor advertisements. Kwick Living challenged the Delhi High Court's territorial jurisdiction, contending that both parties had their registered offices in Mumbai and that mere online accessibility of the advertisements in Delhi was insufficient to confer jurisdiction. HUL argued that the campaign targeted consumers in Delhi and that its business presence in Delhi independently conferred jurisdiction under the Trade Marks Act and Copyright Act.

❖ **Held:**

- The Court observed that existing judicial precedents reflected divergent approaches to determining territorial jurisdiction in intellectual property disputes, particularly those involving online commercial activities.
- It noted the need for clarity on the interplay between Section 20 CPC, Section 134 of the Trade Marks Act and Section 62 of the Copyright Act, including whether a corporate plaintiff must sue where its principal office is situated when part of the cause of action arises there.
- The Court also identified conflicting approaches concerning online transactions and the extent to which website interactivity and commercial targeting confer territorial jurisdiction. Accordingly, the Court referred these questions to a Larger Bench of the Delhi High Court, without conclusively determining the jurisdictional objection or the merits of the disparagement allegations.

Tervinder Singh Jhans & Ors. v. Pankaj Rai & Ors., Appeal Against Order No. 42 of 2026, 2026:BHC-NAG:11473 | High Court of Bombay, Nagpur Bench | Y.G. Khobragade, J. | September 1, 2026

❖ Facts:

- Tervinder Singh Jhans, along with his proprietary concern M/s Barbecue and Barbecue Food Services Pvt Ltd (collectively, “Barbecue”), have run a restaurant and food-and-beverage business under the name “Barbecue”/”Barbeque” at Sadar, Nagpur, since 1994. Barbecue holds a registered device mark for its label under Classes 42 and 43, along with a copyright registration for its logo.
- In November 2022, Barbecue discovered that Pankaj Rai, Kumkum Pankaj Rai, and Epices Hospitality (OPC) Pvt Ltd (collectively, “Epices Hospitality”) had begun supplying food through online platforms such as Zomato and Swiggy under the name “Barbecue Gokulpeth.” Barbecue issued a cease-and-desist notice in December 2022 and subsequently instituted Trade Mark Suit No. 02 of 2026 before the District Judge-15, Nagpur, seeking a declaration and permanent injunction, along with an interim application for a temporary injunction restraining the alleged infringement. By an order dated 4 August 2026, the TrialCourt declined the temporary injunction, holding that the parties operated from different localities within Nagpur and that the term was not exclusively associated with either party. Barbecue appealed the refusal before the Bombay High Court’s Nagpur Bench.

❖ Held:

- The court observed that consumers today encounter food businesses through aggregator platforms such as Zomato and Swiggy, where physical distance between outlets carries little weight against a name that sounds identical on a screen.
- The Court held that “Barbecue” and “Barbeque” are phonetically indistinguishable, and that Epices Hospitality’s use of Barbecue Gokulpeth for online food supply was liable to create an association with the appellants’ established restaurant business.

❖ **Facts:**

- ANI Media, a news agency, filed a copyright infringement suit against OpenAI, alleging unauthorized copying and storage of its copyrighted news content to train the large language models (LLMs) underlying ChatGPT. ANI further alleged that ChatGPT reproduced substantial portions of its copyrighted works in responses generated for users, thereby infringing its exclusive reproduction rights. OpenAI denied infringement, contending that its use of publicly available material for AI training constituted fair dealing under Section 52 of the Copyright Act, 1957. It also challenged the Court's jurisdiction on the ground that its training activities and servers were located outside India.

❖ **Held:**

- The Court held, on a prima facie basis, that OpenAI's storage and use of ANI's copyrighted literary works for training ChatGPT's LLMs constituted fair dealing under Section 52(1)(a) of the Copyright Act, 1957, falling within the exception for private or personal use, including research. The Court considered the purpose of AI training, absence of demonstrated market substitution and broader public interest.
- The Court further found that ChatGPT's outputs did not substantially reproduce ANI's original literary works and that ANI had failed to establish memorisation or regurgitation of its content. It also held that Indian courts could exercise jurisdiction notwithstanding the location of OpenAI's servers abroad. Accordingly, the Court dismissed ANI's application for interim injunction, holding that the balance of convenience and public interest favoured OpenAI. These findings were confined to the interim stage and did not determine the final outcome of the suit.

❖ **Facts:**

- ADS Spirits sought registration of the mark “OFFER” on a proposed-to-be-used basis for alcoholic beverages and alcoholic preparations for making beverages. It contended that “OFFER” was arbitrary and inherently distinctive for alcoholic beverages, and that consumers seeing it on a liquor bottle would perceive it as a brand rather than as an incomplete promotional statement.
- The company argued that the Registrar had ignored its reply, additional submissions, and prior registered composite marks using the word “OFFER”. It also contended that the mark had to be tested in relation to the goods for which registration was sought, and not in the abstract.
- The Registrar defended the refusal, arguing that “OFFER” was an ordinary English word commonly used while asking for discounts, and therefore lacked distinctiveness and were denied broader trademark protection.

❖ **Held:**

- The Court held that the statutory test under Section 9(1)(a) is whether a mark is distinctive, not whether it is unique or newly coined, a distinction that matters because it allows even ordinary English words to qualify for trademark protection if they can distinguish the goods or services of one trader from those of another.
- The Court held that distinctiveness cannot be examined in isolation and must be assessed in relation to the goods for which registration is sought. A word may be descriptive or generic for one class of goods but arbitrary for another. While “OFFER” is a common English word, it does not describe the nature or characteristics of alcoholic beverages merely because it is frequently used in advertising.

❖ **Facts:**

- Home Box Office (HBO) and other copyright owners filed a suit against 30 allegedly rogue websites for unauthorized hosting, streaming and distribution of their copyrighted films and television shows, including content made available immediately upon or before release. The Plaintiffs sought an interim injunction restraining these websites from infringing their copyrights, along with directions to Internet Service Providers (ISPs) and Domain Name Registrars (DNRs) to block access to the infringing websites. The Plaintiffs also sought a dynamic injunction extending to subsequently discovered mirror, redirect and alphanumeric websites. The ISPs and DNRs raised concerns that such blanket directions would require them to determine infringement without judicial scrutiny.

❖ **Held:**

- The Court granted an ad-interim injunction against the identified rogue websites, finding that their primary purpose was prima facie to facilitate copyright infringement.
- The Court held that neither copyright owners nor intermediaries could independently determine whether newly discovered websites were infringing and liable to be blocked, as such adjudicatory authority rests with the judiciary. However, to prevent circumvention of injunctions, the Court permitted ISPs and DNRs to technically verify and provisionally block mirror, redirect or alphanumeric variants of already enjoined websites upon receiving supporting evidence from the Plaintiffs.
- The Plaintiffs were simultaneously required to seek impleadment of such websites before the Court, ensuring judicial oversight while facilitating effective enforcement against online piracy.

Saurabh Maurya v. John Doe/Ashok Kumar & Ors., (CS(COMM) 870/2026) | High Court of Delhi | Anup Jairam Bhambhani, J | August 11, 2026

❖ **Facts:**

- Saurabh Maurya, owner of popular trading/finance channel “IITian Trader,” went to the Delhi High Court after his Instagram account got suspended over a string of copyright strikes. He alleged that the strikes were completely fake and filed by people who’d falsely claimed ownership of the content that he actually owns. Meta claimed that it had restored the plaintiff’s account and admitted that 13 of the strikes against the plaintiff were indeed fake.

❖ **Held:**

- Rather than just resolving Maurya’s individual complaint, the judge framed a much bigger question for the court to examine, being: does suspending or deleting an account purely on the basis of copyright strikes actually violate the principles laid down in the Shreya Singhal and MySpace judgments by the Supreme Court and Delhi HC themselves.
- The Court claimed it to be the central issue that Meta, Google and Telegram will also have all have to respond to. The court ruled in the favour of the plaintiff and directed Meta to give the court an interim assurance that the plaintiff’s content won’t be pulled down over copyright strikes as long as he can prove that a strike is bogus.

The Indian Performing Right Society Limited v. Hotel Appolo & Tours Private Limited, FMA 322 of 2025 | High Court of Calcutta | Debangsu Basak & Md. Shabbar Rashidi, JJ. | August 4, 2026

❖ Facts:

- The Indian Performing Right Society (IPRS), a registered copyright society administering rights in literary and musical works, alleged that Hotel Appolo was communicating its members' copyrighted works to the public by providing cable television connections in guest rooms without obtaining an IPRS licence or paying royalties.
- The Hotel contended that it had lawfully subscribed to cable television services and paid the requisite subscription charges. It argued that the cable operator's licence was sufficient and that no separate licence or royalty payment was required for television broadcasts viewed privately by hotel guests.
- The Trial Court refused IPRS's application for an interim injunction, prompting an appeal before the Calcutta High Court.

❖ Held:

- The Court held that providing cable television broadcasts containing copyrighted literary and musical works in hotel rooms constitutes “communication to the public” under Section 2(ff) of the Copyright Act, 1957, even where guests view the broadcasts privately.
- The Court observed that television services provided to paying guests constitute a commercial amenity, falling outside the exception under Section 52(1)(k). Payment of subscription charges to a cable operator does not dispense with the requirement to obtain an appropriate copyright licence for the underlying literary and musical works.
- Accordingly, the Court set aside the Trial Court's order and granted an interim injunction restraining the Hotel from communicating IPRS's repertoire without the requisite licence and payment of royalties.

❖ **Facts:**

- The dispute arose from trademark infringement proceedings instituted before a Civil Judge (Senior Division) in Jharkhand, who had been designated as a Commercial Court under the Commercial Courts Act, 2015. The Appellants challenged the jurisdiction of such courts, contending that Section 134 of the Trade Marks Act, 1999 expressly prohibits institution of trademark infringement suits before courts inferior to a District Court.
- The Respondents argued that the Commercial Courts Act, being a subsequent special legislation with overriding effect under Section 21, permitted Civil Judges (Senior Division) designated as Commercial Courts to adjudicate trademark disputes.

❖ **Held:**

- The Supreme Court observed that Section 134 of the Trade Marks Act expressly restricts trademark infringement suits to courts not inferior to a District Court, whereas the Commercial Courts Act permits designation of Civil Judges (Senior Division) as Commercial Courts.
- The Court noted an apparent conflict between earlier Supreme Court decisions concerning the overriding effect of the Commercial Courts Act and the jurisdiction prescribed under special statutes.
- Accordingly, the Court referred the issue to a Larger Bench to determine whether Commercial Courts constituted below the level of District Judge can entertain trademark infringement suits, and to ensure uniformity in jurisdictional rules across States. The Court also stayed the pending commercial suit before the Civil Judge (Senior Division), Jamshedpur, until further orders.

THANK YOU!

Questions?

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