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**Alliance School of Law**



# ACIPR BULLETIN

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# ABOUT ACIPR

Alliance Centre for Intellectual Property Rights (ACIPR) is established with the aim to evolve as a centre of excellence in IPR Research and Innovation. It intends to engage academicians, jurists, research scholars, and practitioners in research and training for the promotion and protection of IP rights. The Centre is an initiative of Alliance School of Law, Alliance University, Bengaluru for making an active contribution to the development & promotion of all forms of IP rights. It aims to give special emphasis on fostering research & development in the unexplored areas of the IP domain.





## MESSAGE FROM THE EDITOR-IN-CHIEF

Dear Readers,

As we witness remarkable strides in technological advancements, it is crucial to acknowledge the escalating challenges associated with intellectual property rights (IPR). Recent innovations in IPR play a significant role in protecting and fostering ideas that drive progress in various fields, including technology, business, and environmental sustainability. These advancements underscore the importance of IPR in promoting innovation and safeguarding the fruits of intellectual endeavors.

Innovative solutions protected by IPR have become essential tools in addressing global challenges, from alternative energy and energy conservation to eco-friendly practices in transportation, agriculture, and forestry. These innovations not only propel us towards a more sustainable future but also highlight the critical role of IPR in fostering and protecting ideas that contribute to societal well-being. Together, these strides exemplify how IPR can steer us towards a future where innovation and societal progress unite for the greater good.

In line with our ongoing commitment to fostering meaningful discourse on these critical issues, I am delighted to unveil Volume 4, Issue 1 of the ACIPR Bulletin. This edition, centered around the theme of "Innovation and Intellectual Property," delves into the evolving landscape of IP law and its significant impact on nurturing and safeguarding groundbreaking ideas. We explore a diverse array of topics, including the latest legislative updates, case studies of successful IP strategies, and insightful analyses from leading experts in the field. Our aim is to provide a comprehensive resource that not only informs but also inspires further innovation and intellectual exploration.

I extend my heartfelt gratitude to all contributors, editors, and reviewers whose unwavering dedication and expertise have ensured the high quality of this publication. Their collective efforts have created a valuable platform for thought leadership and scholarly discussion, reinforcing our shared commitment to advancing knowledge and fostering innovation.

**Prof. (Dr.) V. Shyam Kishore**  
**Professor & Interim Dean,**  
**Alliance School of Law**



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# INTERNATIONAL NEWS

## Tennessee to Protect Musicians from AI

Governor Bill Lee of Tennessee signed legislation on Thursday, March 21, 2024, shielding artists, songwriters, and other music industry professionals against the possible dangers of artificial intelligence. Tennessee becomes the first state in the US to approve such legislation. Tennessee has long been known as the birthplace of country music and the launching pad for musical legends. The goal, according to proponents, is to make sure AI tools cannot imitate an artist's voice without that artist's consent. The law will go into force on July 1st, 2024. "We employ more people in Tennessee in the music industry than any other state. Artists own intellectual property. They have gifts. They have a distinct identity that is entirely their own, unlike artificial intelligence". Lee said to reporters as soon as the bill was signed into law. Only three states recognise name, image, and likeness as property rights rather than publicity rights: the Volunteer State. Vocal likeness will now be included on that list under the recently approved Ensuring Likeness, Voice, and Image Security Act, or "ELVIS Act." The law also creates a new civil action whereby individuals can be held liable for publishing or performing someone else's voice without that person's consent or for using technology to create an artist's name, image, voice, or resemblance without the appropriate authorisation.

**Reported By:**  
**Dimple Ganiga P**  
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## **Debate Over AI-Generated Content And IPR**

Technology also appears to be integrated into our daily lives in increasing ways that can often be difficult to distinguish between the virtual and reality, let alone between what is created by an algorithm and what is created by an artist. This issue arises from the blurred lines between human and machine creativity, raising questions about IPR ownership and authorship. Business needs to have clear ownership of Property. This is evident that property ownership has been extended to non-human entities such as software and algorithms. As mentioned earlier, Indian IP law does not allow software or algorithms to be IP owners.

Nevertheless, the Copyright Act of 1957 recognises only the person who starts creating a computer-generated work as the author but does not regard the software as an author. On the contrary, the UK's CDPA and corresponding New Zealand and Ireland legislations afford greater recognition to computer-generated works. The Turing Test shows that AI can be programmed to mimic human thinking and behaviour while the issue of IP rights for AI remains dubious. Such an instance concerning the Indian AI system referred to as 'RAGHAV' which required human co-authorship to assert over copyright laws shows legal uncertainties. with AI beginning to create numerous copyrightable works, using lawful data to train these systems becomes necessary. Thus, the Parliamentary Standing Committee calls for establishing a new category in the invention of products based on AI and corresponding legal amendments since the law has not fully caught up with technological development, and AI-based inventions require clear legal regulation to protect the rights of all inventors.

**Reported By:**

**Subha B**

**Student, Alliance School of Law**

## **Original version of Mickey Mouse, “Steamboat Willie” entered the public domain with Disney retaining rights over other versions**

Mickey Mouse's original portrayal from "Steamboat Willie" will become public domain in 2024, marking a significant shift in intellectual property. Animated and featuring synced sound, "Steamboat Willie," was a groundbreaking piece of visual storytelling and animation, co-directed by Walt Disney and Ub Iwerks. Together with Minnie Mouse, it debuted a cheekier version of Mickey as a boat captain. While work entering the public domain is a renewed sense of independence for the original Mickey, contemporary incarnations don't change. Disney forbids misleading usage and defends the trademark of its recognisable mascot. Disney was aware of the coming transition and promised that even when the "Steamboat Willie" copyright expired, the core of Mickey's link with their stories and authentic items would endure. But Mickey's original silent portrayal as a boat skipper in the 1928 short film is the only instance of this independence.

Disney highlighted their dedication in safeguarding their copyright over contemporary Mickey versions and other works. Disney maintains trademark protection for Mickey as their corporate logo, even though the original Mickey is soon to become public domain. To protect the integrity of Disney's brand, the law expressly forbids using the character in a way that would mislead consumers about their affiliation with the original creator.

In addition to Mickey, other well-known works such as "Circus" by Charlie Chaplin, "Orlando" by Virginia Woolf, and "The Threepenny Opera" by Bertolt Brecht are scheduled to become public domain in the United States in 2024. However, this incident also emphasises how long it takes for American creations to enter the public domain, leaving numerous items with ambiguous copyright. Mickey Mouse's copyright term expiring serves as a heartbreaking reminder of the drawn-out process through which American works are adjudicated to be in the public domain.

**Reported By:**  
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**Student, Alliance School of Law**



## **Reverse Passing Off Case: DHC Rules on Trademark Infringement in Western Digital's Favor**

In the matter of Western Digital Technologies Inc & Anr vs. Geonix International Private Limited, the Delhi High Court (DHC) granted an ex-parte announcement interim instruction to the complainant on February 26, 2024. The instruction was grounded on the grounds of rear-end out and trademark violation. Western Digital Technologies Inc. (WD), a famed manufacturer of storehouse bias, filed the action as the complainant. WD contended that the defendant, Geonix International Private Limited, was refurbishing and rebranding "WD" hard disks as "Geonix" hard disks. To support its claim that these products were first manufactured by the complainant, WD presented reports from its masterminds as well as an independent expert. also, WD argued that an internal report, which verified the connection between the disputed particulars and a device, further established the complainant's identity as the original maker.

The defendants, represented by an advanced service, combated by asserting that the complainant's rights had been completely satisfied through their licit accession, thereby negating any violation. still, the Court determined that there was a strong case of rear end out, emphasizing that the complainant's character could be harmed by the association between the disputed particulars and the complainant.

It's worth noting that WD had preliminarily attained an analogous ex-parte instruction in the case of Western Digital Technologies Inc. v. Raaj Computer in 2022. In that case, the court stressed that misrepresenting the complainant's products as new and unused could deceive consumers, leading to implicit detriment, loss, trademark dilution, and illegal business practices. The DHC concluded that passing off outdated hard fragment drives as new, after altering their published circuit boards and labelling, constituted a trademark violation. As a result, the court granted an ex-parte temporary instruction in favour of WD. The circumstances of the former case bear a striking resemblance to the present matter, yet the court's examination at that time failed to consider rear passing off. The court's analysis in the Raaj case remained silent on the aspects of rear end out, despite the notable parallels between the two cases.

**Reported By:**  
**Rania Rifaya F**  
**Student, Alliance School of Law**



## **Scilex reaches settlement with Takeda over Gloperba patent**

Takeda Pharmaceuticals U.S.A., Inc. and its parent company Takeda Pharmaceuticals Company LTD have reached an agreement with Scilex Holding Company (NASDAQ SCLX), a company specialising in non-opioid pain treatment results, to settle a patent violation case related to Gloperba, a gout treatment produced by Scilex. The disagreement began in November 2023 when Scilex sought to modify the marker for Gloperba, an FDA-approved liquid colchicine drug used to help gout flare-ups. Takeda responded by filing an action against Scilex. As part of the agreement, Scilex has attained an exclusive license to several Takeda patents.

Still, the agreement is pending blessing from the quarter court and nonsupervisory bodies similar to the Federal Trade Commission and the U.S. Department of Justice. These blessings are necessary for agreements involving Paragraph IV patent controversies, although the specific details of the agreement remain undisclosed. Scilex's product portfolio includes ZTlido, a topical lidocaine drug for shingles-affiliated whim-whams pain, and ELYXYB, an oral drug for the treatment of acute migraines. likewise, the company is laboriously developing several pharmaceutical campaigners, including SP- 102, a corticosteroid gel for sciatica, and SP- 104, a low-cure naltrexone for fibromyalgia. Clinical trials for these products are anticipated to commence in 2024.

Scilex considers the agreement with Takeda to be a significant corner, particularly in light of its plans to launch Gloperba in the first half of 2024. This resolution has the implicit to enhance the company's position within the gout treatment assiduity, which serves a substantial patient population.

**Reported By:**  
**Rania Rifaya F**  
**Student, Alliance School of Law**

## NATIONAL NEWS

### **India proposes a framework to incentivize intellectual property development in technical textiles**

India's Ministry of Textiles has unveiled a novel framework that rewards the creation of copyrights, trademarks, and patents in the field of technical textiles with an emphasis on non-aesthetic applications, in an attempt to promote innovation and industry-academia collaboration.

Companies that provide at least 50% of the funding for initiatives funded by the National Technical Textiles Mission (NTTM) will have the exclusive right to sell the intellectual property (IP) created for a significant ten years under the proposed framework. Likewise, organizations that provide at least 10% of the financing would be eligible for a two-year exclusivity term. If an industry is the only owner of intellectual property that comes from collaborative initiatives with academic or publicly funded institutions, the draft allows the academic institution to provide the business a two-year exclusive license for any newly created IP. The Intellectual Property (IP) may then be renewed with the same industry or made available to other interested parties.

The suggested framework is a big step in encouraging the creation of intellectual property in technical textiles, encouraging industry-academia cooperation, and advancing India's reputation for innovation-driven growth. Such efforts have the potential to unleash a surge of creativity and invention as the textile industry continues to change, putting India at the forefront of the world's technical textile innovation.

**Reported By:**  
**Palisetti Sanjana**  
**Student, Alliance School of Law**

## **India's Stagnant position in the International IP Index 2024 raises concerns**

In the latest report released by the US Chamber of Commerce on Wednesday, India's position in the International IP Index 2024 remains unchanged at 42 compared to 2023. In India, the index score has stayed at 38.64% since 2022, reflecting this stagnant state of affairs. In order to provide light on the relative merits and shortcomings of each country's intellectual property (IP) system, the index assesses the IP regimes of 55 different nations. The Report highlights the ongoing obstacles that India faces in the field of intellectual property, pointing out serious flaws in its IP infrastructure. Serious questions have been raised about the enforcement of intellectual property rights and the settlement of IP-related disputes within the legal system following the dissolution of the Intellectual Property Appellate Board in 2021 and long-standing worries about an underfunded and overburdened judiciary within the country. The report notes several encouraging changes in India's IP environment despite these obstacles. The Cinematograph (Amendment) Bill 2023, for example, attempts to improve IP compliance methods while the simplified Form 27 in 2020 provides new language and criminal consequences to combat film piracy. The report also highlights the ongoing discussions over IP exemptions for COVID-19 medicines and diagnostics, advising against such actions due to potential negative effects on future IP Index scores. It recommends that rather than supporting ineffective policies, international institutions should restate their commitment to global intellectual property protection.

While India struggles to hold onto its position, the report shows that IP rules are generally doing better around the world, with 20 economies including Saudi Arabia, Brazil, and Nigeria showing notable advancements. The grades for 27 economies, including India, are still unchanged, though, suggesting that significant changes are required to strengthen their intellectual property frameworks.

**Reported By:**  
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### **Delhi HC upholds Dolma Aunty Momos trademark; Cancels infringing trademark registration**

The respondent 1's trademark "DOLMA AUNTY MOMOS," which was registered in Class 30 on September 24, 2018, was the subject of a rectification petition that was filed on April 02, 2018, with the intention of having it cancelled and removed. Anish Dayal, J. asserts that respondent 1's trademark ought to be revoked and removed from the Trademarks Register due to trademark infringement.

The owner of Dolma Aunty Momos, Dolma Tsering, started her business in Lajpat Nagar, Delhi, in 1994. She specialises in Tibetan cuisine, especially momos. She expanded to run several locations in Delhi-NCR by 2021 and had a solid reputation for providing high-quality goods and services. The petitioner came across people selling identical products using her trade name, Dolma Aunty Momos, without authorization.

The petitioner filed a rectification petition under Section 57 of the Trademarks Act after the respondent secured a trademark registration that was exactly the same as the petitioner's established trade name. The petitioner's attorney claimed ownership of the registered trademark "DOLMA AUNTY MOMOS," which was approved on November 17, 2023, after being applied for on April 20, 2022. Additionally, she had another pending trademark application under Class 43. Ex-parte proceeding resulted from the respondent's failure to appear in court after being served. The petitioner presented strong proof of her long-term trademark usage and the reputation she had established around it. The petitioner's uncontested claims were acknowledged by the court, while the respondent's claims of non-use were accepted. Following a thorough investigation, the Court found that the petitioner had a strong case.

As a result, the Trademarks Registry was instructed to annul and remove the contested trademark "DOLMA AUNTY MOMOS" from the register by the Court, who also granted the rectification petition.

**Reported By:**  
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### **India aims to secure 10% of IPRs in 6G technology: MeitY official**

According to a senior official of the Ministry of Electronics and IT (MeitY), India hopes to obtain 10% of the Intellectual Property Rights (IPRs) in sixth-generation, or 6G, technology thanks to initiatives being led by the Department of Telecommunications (DoT) and the Department of Science and Technology (DST), among others. According to Meenakshi Agarwal, Scientist 'D' at MeitY, also underlined the importance of strengthening cybersecurity and privacy laws and energy-efficient technology. According to Debabrata Das, Director of IIIT-Bangalore, the three main pillars of 6G technology are standards, technology, and regulation.

However, putting 6G technology into practice presents several difficulties that must be overcome by paying close attention to standards to navigate the complexities of telecommunications improvements. According to the release, Das praised India's unveiling of the Bharat 6G vision and the country's active involvement in international standards organizations like the International Telecommunication Union (ITU). On March 23, 2023, Prime Minister Narendra Modi unveiled India's 6G Vision whitepaper, dubbed the "Bharat 6G Vision," which calls for India to lead the way in the creation, advancement, and application of 6G technology by 2030. As a result, the telecom department's efforts have improved India's standing in the global telecom arena and successfully led to the acceptance of ubiquitous intelligence, ubiquitous connection, and sustainability as essential components of 6G technology.

Zero-trust systems become essential for security in 6G with capabilities like high-frequency transmission and the Internet of Nano Things, according to Sridhar. ITU has just developed a vision for the 6G framework, stated Bharat Bhatia, President, of ITU APT Foundation of India. There is a need for significant investments needed for the 6G standardization. He emphasized the massive financial outlays necessary for the standardization of 6G and that it is necessary to participate in the global standard-setting process and help shape the direction of 6G technology.

**Reported By:**  
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**Student, Alliance School of Law**

## **Delhi HC Imposes Damages Worth INR 244 Crores on Lava in the Ericsson-Lava SEP Dispute**

No doubt, this year 2024 is a very happening year for the SEP litigation scene. In January only, we saw how prominent companies like Nokia and OPPO settling their disputes around the world. In February only, the Delhi High Court instructed OPPO to deposit an undisclosed amount as an interim deposit in its SEP dispute. Finally, the Delhi High Court imposed damages of INR 244 crores on Lava International Limited in a long-standing patent dispute with Ericsson. The case centered around the infringement of Standard Essential Patents (SEPs) related to 2G, EDGE, and 3G technologies held by Ericsson. Background of the Dispute The dispute began in 2015 when Lava challenged Ericsson before the Noida district court for not making the suit patent available on a reasonable royalty. Ericsson later on responded by filing a lawsuit in the Delhi High Court alleging that Lava was using its patented technology without proper licensing. In its defence, Lava argued that Ericsson's patents were not essential and were invalid. The legal battle intensified in 2016 when the Delhi High Court issued an interim injunction to the Lava with a condition of depositing INR 50 crores with the court as a security amount.

The Delhi High Court in its judgment has given us a sense of justice. The court not only found Lava guilty of patent infringement but also looked carefully after Ericsson's patents and revoked one of Ericsson's patents for lack of novelty. The Court seemed to have followed the Ericsson- Intex DB order's rationale to find Lava guilty of infringing Ericsson's patent. This indicates the court's balanced approach to patent scrutiny.

**Reported By:**  
**Apoorva Kumari**  
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## **Amendments to Indian Patent Rules, 2024: Simplifies the Process**

The Patents (Amendment) Rules, 2024 were adopted, as announced in New Delhi on March 15, 2024, by the Ministry of Commerce and Industry, via the Department for Promotion of Industry and Internal Trade. This is a big step in the direction of encouraging innovation and conforming to international norms. When these modifications take effect on March 15, 2024, India's patent rules and procedures will have undergone a significant adjustment. The revised regulations aim to protect innovators' rights, promote their creativity, and streamline important but problematic aspects of the Indian patent system. The Statement and Undertaking (Form-3) requirement has been simplified, which is one of the most significant changes.

Previously, applicants needed to provide updates on related patent applications regularly using Form-3. The modified Rule 12(2) now mandates that the new Form-3 be filed within six months of the relevant application being filed outside of India. This change was made to reduce the administrative burden on applicants and increase the effectiveness of the patent filing procedures. The Controller may accept late submissions of Form-3 or grant an extension of the filing deadline of up to three months in the event of any delays. Recently established Rule 12 sub-rule 5 permits applicants to file Form-4 requests for these kinds of extensions. Nevertheless, filling out Form-4 online now comes with a cost. For major enterprises, the monthly price is INR 10,000; for startups, individuals, small entities, or educational institutions, it is INR 2000. These amendments suggest that Indian authorities are making a concerted effort to increase the patent system's competitiveness, which will encourage innovation and speed up processes for stakeholders and inventors alike.

**Reported By:**  
**Dimple Ganiga P**  
**Student, Alliance School of Law**

### **Milestone Achievement: India Sees Surge in Patents, Simplifies Process**

The Ministry of Commerce and Industry in India celebrated a significant milestone achieved by the Indian Patent Office, which successfully granted over one lakh patents within a single year. With one application filed every six minutes, 90,300 patent applications were received in 2023 which is a record value. This achievement was achieved from March 15, 2023, to March 14, 2024, with an average of 250 patents granted per working day. Additionally, India witnessed a significant rise in Geographical Indication (GI) registrations, with 98 new registrations in 2023-24 and another 62 expected by March 31, 2024. Furthermore, copyright and design registrations for the fiscal year were 36,378 and 27,819, respectively. The Ministry also announced the implementation of Patent Rules, 2024, intending to simplify patent processes and support innovators, including the introduction of a 'Certificate of Inventorship'. To accommodate the fast-paced technological advancements, the time limit for submitting foreign application filing details has been reduced to 3 months from the issuance of the first examination report, and the request for examination must now be filed within 31 months from the priority or filing date.

**Reported By:**  
**Malavika Rajeevan**  
**Student, Alliance School of Law**



## **FM Nirmala Sitharaman Promotes IPR Laws as an Incentive for R&D Advancement**

Finance Minister Nirmala Sitharaman has emphasized India's commitment to strengthening Intellectual Property Rights (IPR) laws and policies, citing the remarkable surge in research and development (R&D) endeavours. Sitharaman aims to redefine IPR laws as enablers rather than impediments to R&D progress, expressing appreciation to the Prime Minister for pivotal policy advancements made in 2016. Addressing the attendees at a book launch event centered on Patent Law, Sitharaman elaborated on the law's balanced approach, which consolidates various aspects of intellectual property, encompassing patents, trademarks, copyrights, and trade secrets. This comprehensive legislative framework aligns with the standards of Trade-Related Aspects of Intellectual Property Rights (TRIPS), ensuring the safeguarding of IPR while addressing developmental needs. Sitharaman also outlined governmental efforts to support patenting activities, including the implementation of reduced fees for startups and educational institutions. Additionally, she shed light on initiatives like the "Scheme for Pedagogy and Research in IPRs for Holistic Education and Academia" designed to cultivate intellectual property education and support within academic spheres.

**Reported By:**  
**Malavika Rajeevan**  
**Student, Alliance School of Law**

## **CASE LAWS**

### **Niranjan Arvind Gosavi and Ors vs Innovative View India Private Limited, CS(COMM) 214/2024**

The case heard by Hon'ble Mr. Justice Anish Dayal in the High Court of Delhi related to a dispute regarding a patent, specifically Patent No. 336205. This patent, granted with a priority date of July 9, 2019, relates to a method for creating a secure barcode for a document and validating the barcode and its holder.

In an offline environment, it seeks to identify phony and duplicate documents. An electronic procurement for a QR Code Solution with encoded words, published by the National Testing Agency (NTA), gave rise to the controversy. The plaintiffs claimed that their patented technology had to be used in order to comply with the requirements of the e tender.

The plaintiff claims that the defendant infringed on their patent in connection with an e-tender issued by the National Testing Agency (NTA) for an enhanced QR code solution with encoded texts. The defendant claims that they have their own technology but have not filed a patent application for it. They contended that even if the plaintiffs' patent was valid, they would be protected from infringement claims under Section 47 read with Section 156 of the Patents Act of 1970. Section 47 of the Patent Act authorises the government to use patented technology for its own purposes.

They asserted that they may enter into contracts with the government that would shield them from lawsuits alleging infringement. The plaintiffs disputed the defendant's claim, asserting that prospective infringers are not protected by Section 47. They argued that an infringement can still result in an injunction, even when the government may use the patent for its own objectives. The court, considering the impact of the tendering process by the NTA, the court declines to grant an injunction at the ad-interim stage. However, it allows the plaintiffs to bring the relevant issues to NTA's attention. The court also orders the defendant to keep full accounts of revenue earned and technical specifications as bid for and file them in a sealed cover. The case is listed.

**Kandukuri Lakshmi Priya**  
**Student, Alliance School of Law**

### **Subway IP LLC V.Infinity Food & Ors.**

The Delhi High Court refused to grant an interim injunction to plaintiff Subway IP LLC against the defendant's Infinity Food & Ors, in the matter of using layout, decor, marks, etc allegedly similar to the plaintiff's marks. The United States-based company Subway IP LLC, well-known for its global chain of restaurants operating under the "SUBWAY" brand, is the owner of registered trademarks in India whereas Infinity Foods LLP, the defendants used the word "SUBERB" for their outlets. Plaintiff claimed that after sending the Defendants a cease-and-desist letter, the Defendants altered the colour scheme of their trademarks, logos, decor, and other items. The Plaintiff brought the current lawsuit as their rights were being violated.

The Court affirmed that Plaintiff cannot claim monopoly over words like SUB, VEGGIE, and CLUB and noted that these words are public juris in respect of sandwiches as they are common to trade in respect of sandwiches. Further, the court noted that the defendant's change in colour scheme, marks, decor, etc is distinct from that of the plaintiff.

**Shaik Ishrath Sadiqua**  
**Student, Alliance School of Law**

## **Nokia Technologies Oy Vs. Guangdong Oppo Mobile 2022/DHC/004935**

The Delhi High Court in its recent decision in a patent infringement matter between Nokia and Oppo granted the latter a “Pro-Tem Security”. The essence of this controversy is that Nokia’s SEP (Standard Essential Patent) sliced through Oppo’s device without a proper license for the current technology. This was evident when Nokia collapsed a licensing agreement with Oppo in 2018 that had extended to 4G but did not extend to SEPs of 5G. Nokia accused the global number two smartphone maker, Oppo, which sells heavily in India a key market for the company of continuing to sell 5G handsets in India and other markets without paying royalties for these patents.

Nokia asked to obtain interim security from Oppo based on the last counteroffer for the GL license of its SEPs and the proportionate royalty amount for Oppo’s mobile phone sales in India. On the same note, oppo wanted the bank guarantee as security which it deemed enough and proper. On the same note, the court rejected Oppo’s suggestion to submit a bank guarantee to be paid upon the formulation of the FRAND deal since this has not yet been achieved. Adding to this, the court also cited a case in Germany, where Oppo was labeled as an unwilling licensee that deprived it of selling devices without a Nokia license.

Even, the Delhi High Court observing Oppo’s activities as an unwilling licensee stressed the need to safeguard the interests of Nokia during the negotiation phase. As a result, the court directed Oppo to pay RM 23% of the last paid license fee under the 2018 Agreement based on a reasonable estimate of Oppo's total sales in the global market with a breakdown of India’s proportion. This means that Nokia has to pay Euro 300 million to Apple to cover their rights during the negotiation process thus creating equal grounds for both parties. The expansive approach of the court’s decision can be viewed in the light of interim security for patent holders in the case of SEPs, particularly in negotiations where the use of the technology has to be authorised in the meantime.

**Subha B**  
**Student, Alliance School of Law**



## THINK OF THE THEMATIC DÉCOR- PROTECTION UNDER INTELLECTUAL PROPERTY

Trade Dress, a term that has gained popularity in the field of intellectual property rights, refers to the visual image, appearance or overall impression of a product or its packaging and its theme and ambience.

Beyond tangible products, the decoration or arrangement, layout of a business space can also fall under jurisprudence of trade dress. This is particularly prevalent in the services industry. Think of the thematic decor of a Hard Rock Café with its rock memorabilia adorning the walls, or the specific layout and ambience of an Apple Store ambience of Subway, KFC etc. These elements, while not physically taken home by consumers, offer a unique experience that becomes associated with the brand. The overall appearance of a restaurant i.e. its 'look and feel' consisting of unique setup, decoration, colour combinations, placement of furniture, furnishing and other decors, falls within the meaning of trade dress and is a protectable form of trademark. For restaurants, stores, or even hotels, the décor, layout, logo, font, interiors, seating style, and staff uniform can play a crucial role in attracting customers and ensuring they return, drawn by the familiar and distinctive ambience. There are cases where distinctive interiors and decorative designs of a restaurant have been held to constitute trade dress and have been protected. For example, a series of court cases protected the distinctive floor plan, décor, the menu of restaurant which has unique exterior, decorative dining areas, wallpapered interiors, and signage bearing a certain font and colours. Likewise, the distinct elements of a restaurant such as McDonald, a clown character used as the Primary Mascot of the McDonald 's and the unique interiors, colour combination of KFC, Domino's also ought to be protected as trademarks.

Apart from photograph and graphics having artistic elements, signage, that will often be protected under Copyright as artistic works, the menus of a restaurant can also be protected by copyright, if it can be shown skill and judgement have been used in choosing and describing the menu items and in selecting and arranging the menu's layout.

India's approach to trade dress is more implicit. The Trademarks Act of 1999, which governs trademarks in India, does not provide an explicit definition of 'trade dress.' However, a careful reading of the Act, especially sections related to the protection of trademarks, offers an understanding of trade dress. For instance, the Act's protection of shape, packaging, and colour combinations can be interpreted to cover trade dress elements. The challenge in India often lies in proving the distinctiveness of a trade dress, especially in the face of potential infringement.

As many companies make significant efforts to create recognisable services and by other means such as by depicting the 'look and feel' of restaurant or the theme or ambience, in advertisements or by posting appropriate notices on-site, which has obvious great economic and legal importance, therefore, only protecting intellectual property in not sufficient, it is equally important to prevent its unauthorised use.

In the absence of obvious statutory provisions for trade dress, India often relies on the common law doctrine of 'passing off.' This legal principle prevents one trader from misrepresenting their goods or services as that of another. In the framework of trade dress principle, if a business can prove that their products and service's appearance has garnered goodwill and reputation in the market, and that a competitor's similar appearance is likely to deceive or cause confusion, they can seek legal remedies under passing off.

In *ITC Limited v. Central Park Estates (P) Ltd.*, CS (COMM) 781 of 2022, decided on 14-11-2022, the Hon'ble High Court of Delhi, ruled that the plaintiff's supporting documents indicate that not only was the trademark 'BUKHARA' organically associated with Indian cuisine but also that the plaintiff's restaurant was a frequent visit for foreign customers and celebrities and dignitaries. Further, Delhi High Court in *National Insurance & Indemnity Corpn. v. Virat Travels*, case No, CS (Comm) 66/2020 decided on April 06, 2022, granted permanent injunction restraining the defendants from using distinctive features of the busses and logo, colour combination, stylized representation and font style and imprint or artistic form, identical to that of Plaintiff and also awarded costs INR 12, 85, 000/- to National and Grey Hound.

**Adv. Somnath De**  
**Advocate, Intellectual Property Attorney**

## EVENTS & ACTIVITIES OF ACIPR

### 2024

**NATIONAL WORKSHOP ON ARTIFICIAL INTELLIGENCE'S IMPACT ON INTELLECTUAL PROPERTY RIGHTS:** The workshop featured Mr. Bharadwaj Jaishankar and other distinguished speakers who rendered their valuable insights and seasoned take on contemporarily expanding phenomena of artificial intelligence's effect on intellectual property rights. The event was captured by WIPO's event calendar

**WEBINAR ON LEGAL ASPECTS OF IP PROSECUTION:** Gained insight into obtaining and enforcing IP rights and provided knowledge to open doors to exciting career opportunities in various firms and government agencies. Attended by more than 150 participants. The honourable speaker was Advocate Anumita Verma.

**NATIONAL WORKSHOP ON FOSTERING INNOVATION AND CREATIVITY THROUGH SUSTAINABILITY TOWARDS A COMMON FUTURE:** The event witnessed participation of more than 100 participants from across the India and has been captured in WIPO's world IP day's event calendar along with promotions across websites like Legal Bites, LawOf, etc. The event was a stellar success as the students and academicians gained information which is typically acquired after years of practicing IPR for green energy, EVs, Patent registrations for years.

**BLOGS:** Multiple blogs with proliferating innovation like "Fashion knockoffs: where does inspiration end and theft begin?", "Ott's legal maze: navigating India's streaming landscape", "In the meme time: examining the copyright dilemma in memes" were published available to delve into fresh perspectives.

### UPCOMING EVENTS

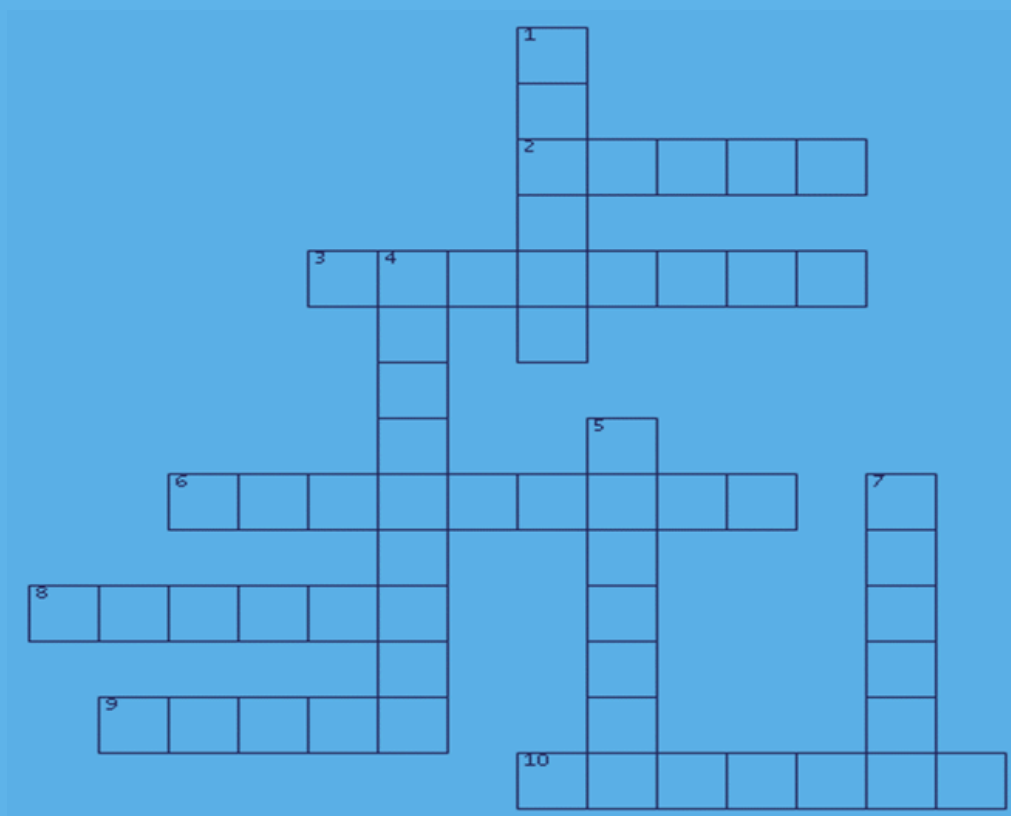
**ALLIANCE JOURNAL FOR INTELLECTUAL PROPERTY LAW 2024, VOLUME II ISSUE 1 (E-ISSN Number 2584-0363)-** The Journal is a flagship initiative from Alliance Centre for Intellectual Property Rights (ACIPR), Alliance School of Law, Alliance University, Bengaluru. It is a double-blind peer-reviewed intra-collegiate journal. It aims to publish quality research papers which have much literary and practical relevance and application.

# STUDENT MEMBERS OF ACIPR

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# TRIVIA



## Across

2. Which tech giant recently lost a patent infringement case to VirnetX and was ordered to pay \$502.8 million in damages?
- 3 Which social media platform recently settled a patent infringement lawsuit with BlackBerry?
6. Which company recently filed a patent for a blockchain-based voting system?
8. Which country is known for its specialized intellectual property courts and fast-paced patent examination process?
9. Which developing country has been at the center of debates around balancing IP rights with access to essential medicines and technologies?
10. which streaming platform faced legal challenges over alleged copyright infringement related to the release of the film "Cuties"?

## Down

1. Which company recently won a patent for a foldable smartphone design?
4. In 2024, which country introduced a controversial new law requiring social media platforms to pay publishers for news content?
5. In 2016, which social media platform faced criticism over its implementation of an algorithm that automatically tagged copyrighted music in user-uploaded videos?
7. Which major tech company has been at the forefront of advocating for stronger IP protections around AI-generated content?

**ANSWERS:** 1. Huawei, 2. Apple, 3. Facebook, 4. Australia, 5. YouTube, 6. Microsoft, 7. OpenAI, 8. Brazil, 9. India, 10. Netflix.

# DID YOU KNOW?? FUN FACTS

- The “Bubble Wrap” is a trademark name for the inflated cushioning wrap that fills boxes and is addicting to “pop.” Sealed Air Corporation owns the trademark!
- Gestures are also trademarkable! Usain Bolt has a trademark on his famous “The Lightning Bolt Pose”.
- In 1936, Einstein was granted a US patent for the design of a blouse!
- E-mail is copyrighted as soon as it is sent or received.
- Twitter does not have Trade Mark for the word “Tweet”
- Did you know that the oldest active trademark is held by the Belgian brewery Stella Artois? They’ve been protecting their brand since 1366
- Frank R. Nemirowsky patented this apparel in 1978. It features a pocket that can hold any object you like – perhaps even gumballs! The goal was to create novel interaction between the viewer and wearer.
- A middle schooler’s bright idea for magnetic locker decorations earned her a patent and a deal with Target
- In 1967, a patent was filed for a bunny-shaped syringe to make immunizations less intimidating for children.
- Animal Track Footwear Soles (1968): Philip E. McMorrow patented these soles in 1968. They allow you to leave simulated animal tracks for educational purposes or mere amusement. Apparently, it’s becoming harder to train wildlife experts in the art of tracking various wild animals due to the continuous depletion of wildlife Populations
- Michael Jackson, with two other inventors, had invented a device that enabled him to perform his famous antigravity lean on stage – patent numbered US5255452A and titled “Method and Means for Creating Anti-Gravity Illusion”!
- In 1998, Disney helped create a copyright law that made sure no movies from 1923 became free to watch and distribute for 20 more years. This copyright law expired on January 1, 2019.
- The word “Home” has been trademarked by Mark Zuckerberg’s Facebook! The USPTO has trademarked “Home” under trademark classes 9, 35, and 38.
- The title of the shortest patent is “Metoprolol Succinate” which is just half of a page long!
- Abraham Lincoln, the 16th president of the United States had a Patent numbered US6469A and was titled “Buoying vessels over shoals”. Till date, he is the only president of the United States to have a patent to his name.
- People can be trademarked! For example, the Kardashian family has filed for trademarks for the names of the Kardashian girls and their offspring. This includes Kim Kardashian and Kanye West’s children: Saint, North and Chicago West. Add to that Khloe Kardashian and her daughter True Thompson, and Kyle Jenner’s daughter Stormi Webster.
- Halliburton Company once tried to patent patenting!
- Jonas Salk, the inventor of the medicine against poliomyelitis, refused to obtain a patent in 1955. He decided that the whole mankind needed it more. But if he had patented it, he would have earned about 7 billion US dollars.



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