

# IPR INSIGHTS

Your Monthly Digest to Stay Ahead in the Evolving Realm of IPR



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**The Mc-Monopoly Debate:**  
Is McDonald's Overplaying Its Trademark  
Hand in India? 04

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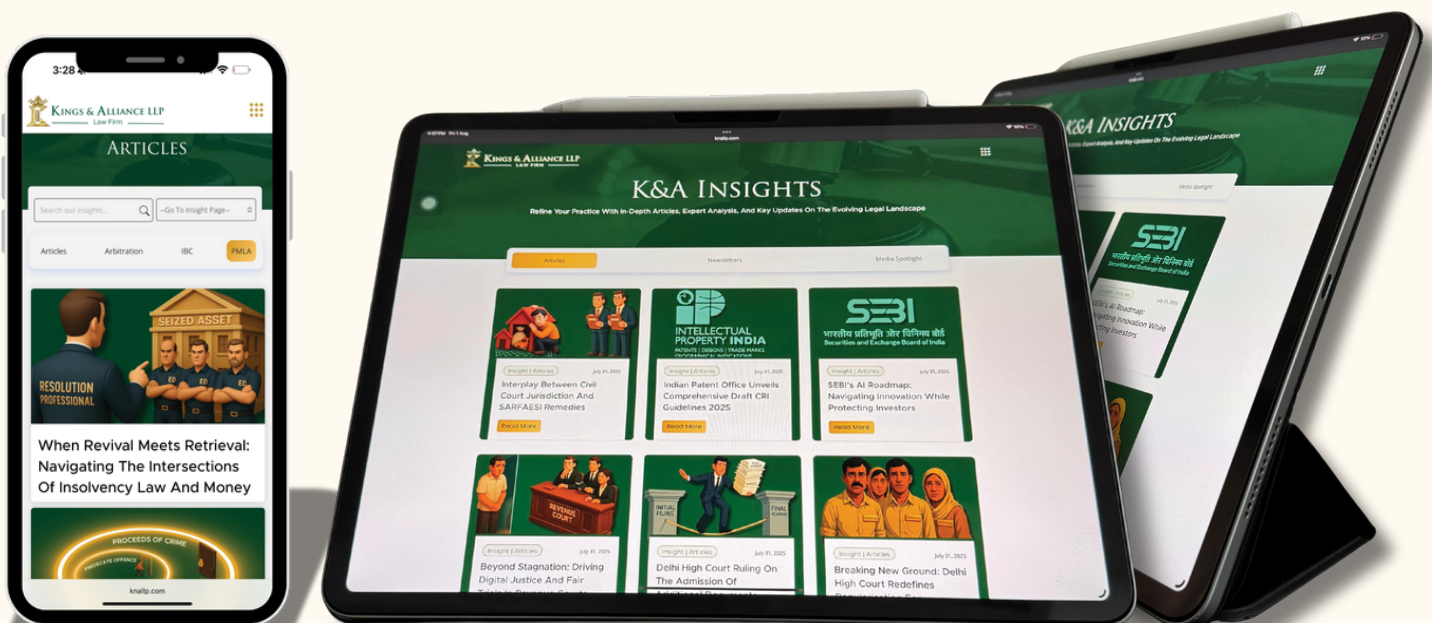
***A tale of two letters,*** lies at the heart of our cover story this month, "The Mc-Monopoly Debate: Is McDonald's Overplaying Its Trademark Hand in India?" This edition of our newsletter delves into the crucial legal boundaries of trademark law, exploring how Indian courts are shaping the evolving jurisprudence on the 'family of marks' principle to prevent corporations from claiming monopoly over generic terms. We examine this specific case as a fundamental re-evaluation of trademark law, asking whether a powerful corporation can truly claim exclusivity over a syllable like 'Mc.'

This edition also brings you up to speed on other pivotal developments across the Intellectual Property Rights landscape. We highlight the Quia timet Quandary, a legal analysis of granting injunctions for imminent infringement, and a critical examination of the "inventive step" in Indian patent law, particularly the Teaching, Suggestion, Motivation (TSM) test. We also cover the fascinating debate of AI vs. Artistry, discussing who owns the copyright to works generated by artificial intelligence under India's current legal framework. Further refining the boundaries of design law, we feature the Delhi High Court's ruling in Dura-Line India Pvt. Ltd., which meticulously distinguished between a product's functional and aesthetic features, serving as a vital reminder of foundational doctrine.

Finally, we look at the crucial issue of urgency in IPR cases in the context of Section 12A of the Commercial Courts Act, as seen in Rahul Mishra's victory against counterfeiters, which highlights the need for immediate relief in intellectual property infringement. We've also included a brief analysis of the new Draft Patent (Amendment) Rules, 2025, which overhauls India's Patents Act by shifting from prison terms to fines, and a list of key upcoming training and events to keep you ahead of the curve.

Let's dive in.

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## COVER STORY 04

The Mc-Monopoly Debate: Is McDonald's Overplaying Its Trademark Hand in India?



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The Quia timet Quandary: Navigating the Legal Lacuna in Indian Patent Law



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AI vs. Artistry: Indian Copyright Law at a Crossroads for Fashion Designers



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Designs, Deception, and Due Diligence: A Doctrinal Comeback



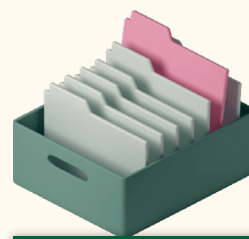
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## SIGNIFICANT CASE LAWS 10

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## REGULATORY UPDATE 17

India's Patents Act Undergoes a Major Overhaul



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# COVER STORY

## The Mc-Monopoly Debate: Is McDonald's Overplaying Its Trademark Hand in India?



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*The family of marks doctrine, while useful, should not be weaponized to create monopolies over common syllables*

In the bustling courtrooms of Indian commerce, a familiar David-and-Goliath story is unfolding. This time, the global food titan McDonald's, a purveyor of golden arches and ubiquitous brand names, is locked in a legal struggle with a local Ahmedabad entrepreneur. The core of their dispute is not a burger recipe or a logo, but a mere two-letter prefix: 'Mc'. This showdown forces a fundamental re-evaluation of trademark law, asking whether a powerful corporation can truly claim a monopoly over a syllable, or if the spirit of fair competition must prevail.

A trademark serves as a brand identifier, distinguishing a company's goods or services from competitors. Its primary purpose is to prevent consumer confusion and protect a company's brand integrity. The concept of a "family of marks" is a non-statutory principle recognised by Indian courts. It refers to a series of trademarks that share a common, distinctive component, leading consumers to associate them all with a single source. This strategy, exemplified by the Tata Group's use of "Tata" across its various businesses, helps establish a cohesive brand identity and simplifies consumer navigation through diverse product landscapes.

The issue arises when corporations become overly possessive of this common element. They fear that even a non-infringing mark, by incorporating the prefix "Mc," could confuse consumers into associating it with the McDonald's corporation, thereby weakening their brand. This raises a fundamental question about the reasonableness of a single entity...



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# PIVOTAL ISSUES

## The Quia timet Quandary: Navigating the Legal Lacuna in Indian Patent Law

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*when does preparing for a post-patent-expiry launch cross the line into an illegal act?*



Imagine a startup has developed a new, highly sought-after software, and a competitor, before the startup has even launched, has already reverse-engineered the code, prepared marketing materials, and built a massive server infrastructure to handle millions of users on day one. While the competitor hasn't actually launched the product, the threat of an immediate and devastating market entry is palpable. This scenario is similar to what intellectual property holders, particularly in the pharmaceutical industry, faced with imminent infringement.

A recent order by the COA of the UPC in the case of *Boehringer Ingelheim v. Zentiva* has provided a clear standard for addressing this very issue. The court's decision, which overturned a previous ruling, established that an injunction can be granted even before a product is on the market if the preparations for its launch are so advanced that only the defendant's own self-restraint is preventing the infringing act.

The Lisbon Court initially denied *Boehringer's* request for an injunction against *Zentiva*, a generic drug manufacturer. The court reasoned that *Zentiva's* actions—obtaining MAs and a PEP approval—were standard industry practice and didn't represent a direct threat of imminent infringement. The COA, however, disagreed. It concluded that because *Zentiva* had cleared all regulatory hurdles and was in a position to immediately launch its generic product, the threat was no longer speculative. The only thing preventing the product from...

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# PIVOTAL ISSUES

## The Inventive Step: A Critical Examination of Obviousness, the TSM Test, and Jurisprudential Borrowings in Indian Patent Law



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*Indian PSA is not "ordinary" or "average." Instead, this PSA is "greater than average,"*

In the intricate landscape of intellectual property, securing a patent in India hinges on a triad of fundamental requirements: novelty, inventive step, and industrial application. Among these, the "inventive step" stands as a particularly formidable and universally scrutinised hurdle. It demands nothing less than a significant "leap" beyond the existing body of knowledge, transcending mere incremental adjustments or the predictable evolution of an innovation that any skilled individual might readily conceive. This foundational principle finds its historical resonance in the venerable U.S. case of *Hotchkiss v. Greenwood*, which sought evidence of "more ingenuity and skill were possessed by an ordinary mechanic acquainted with the business".

To bring a measure of objectivity to this inherently subjective assessment of a "sufficient leap," patent law introduced a crucial hypothetical figure: the "Person Having Ordinary Skill in the Art" (PHOSITA). The idea is simple: if this hypothetical expert, with their practical knowledge, would find the invention's "leap" too small or predictable, then it's considered obvious and cannot be patented. This report will delve into the inventive step as it applies in India, examining the specifics of the Teaching, Suggestion, Motivation (TSM) test, comparing how different legal systems approach obviousness, and critically analysing how the adoption of legal concepts from other nations impacts the integrity and quality of patents granted within India.



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# PIVOTAL ISSUES

## AI vs. Artistry: Indian Copyright Law at a Crossroads for Fashion Designers



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*In this age of algorithmic artistry, who truly owns the copyright?*

In the dynamic and vibrant realm of Indian fashion, a quiet revolution is unfolding, stitched not with needle and thread, but with lines of code. As designers embrace generative AI, a powerful new muse that can conjure patterns, predict trends, and streamline entire collections the creative landscape is changing at a breathtaking pace. But as this digital collaborator becomes an essential part of the atelier, a new and complex question takes center stage: In this age of algorithmic artistry, who truly owns the copyright? While global jurisdictions are locked in debate, India's unique legal framework offers a fascinating and intricate perspective, setting the stage for a critical discussion that will define the future of fashion.

The crux of this modern dilemma is the very essence of authorship. In India, the Copyright Act, 1957, steadfastly requires an author to be a human or a legal entity. This is where the path diverges from jurisdictions like the UK, which recognizes "computer-generated works" and vests authorship in the person who orchestrated the creation. India's legal landscape, lacking a similar provision, currently withholds copyright protection from works that are purely the product of an AI, created without any significant human creative input.

In the journey to create a protected, original work, a designer's demonstration of human skill and judgment is the ultimate key. If an AI is simply given a generic prompt like "create a floral pattern" and the resulting image is used as-is, it is unlikely to meet this legal threshold...



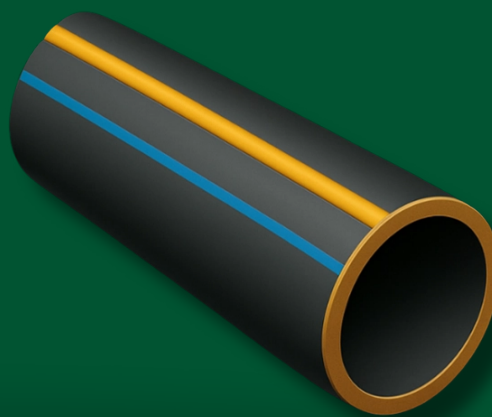
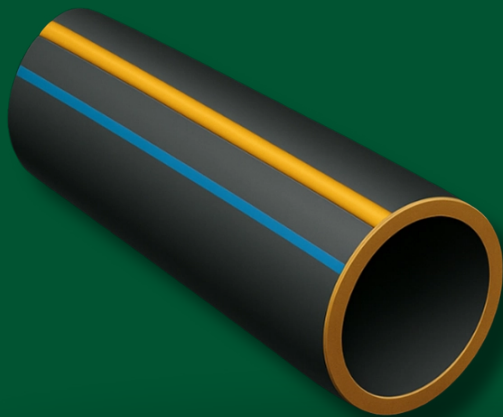
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# PIVOTAL ISSUES

## Designs, Deception, and Due Diligence: A Doctrinal Comeback



*Design protection is intended for creative expression, not for monopolising functional innovation.*

In the evolving landscape of Indian intellectual property, the line between design and patent law has often blurred. This has led to a recent trend of superficial judicial analysis in design infringement cases, as witnessed in *Symphony Ltd. vs. Thermo King India Pvt. Ltd.* However, the Delhi High Court's decision in *Dura-Line India Pvt. Ltd. v Jain Irrigation Systems Ltd.* stands as a crucial corrective. This landmark judgment reaffirmed the "eye test", a cornerstone of design law by meticulously distinguishing between a product's functional and aesthetic features. The case not only corrects a troubling trend of cursory legal scrutiny but also serves as a vital reminder of the principles underpinning design protection, ensuring the system remains fair, innovative, and competitive. This article examines the core concepts of design law, critiques the recent judicial neglect of these principles, and evaluates the Dura Line judgment as a necessary and timely revival of foundational doctrine.

The case centered on two core issues: whether the defendant's product infringed on the patent, and whether it infringed on the design. In its analysis, the court delivered a distinct rationale for each issue. On the question of patent infringement, the court ruled in favor of the plaintiff. It concluded that because all the essential elements of the patented claim were present in the defendant's product, infringement had occurred. The court dismissed the defence that the manufacturing method was common, emphasizing that the core inventive concept had been replicated.





# PIVOTAL ISSUES

## Rahul Mishra's Victory: How IPR Infringement Cases Redefine Section 12A of the Commercial Courts Act



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*while pre-institution mediation is mandatory, courts have a clear and defined role to assess the authenticity of a plaintiff's claim for urgent relief.*

In the high-stakes world of commercial disputes, a plaintiff's ability to seek an immediate and effective remedy is paramount. A crucial legal instrument for this purpose is the ex parte ad-interim injunction, a court order granted without hearing from the defendant to prevent immediate and irreparable harm. This is a powerful tool, particularly in cases of intellectual property infringement, where time is of the essence. For instance, imagine a fashion designer who discovers their unique, handcrafted creations are being illegally mass-produced and sold at a fraction of the price by an unknown entity on multiple online platforms. Delay could lead to a complete erosion of their brand value, market standing, and creative legacy. This very situation was at the heart of the case involving renowned fashion designer Rahul Mishra.

This pressing need for speed, however, must be carefully balanced with the legal framework established by the CC Act. A central pillar of this act is Section 12A, which mandates pre-institution mediation for commercial suits that do not "contemplate any urgent interim relief." The intent is noble: to reduce judicial backlog and promote amicable settlements. But this creates a potential conflict. How can a court ensure a plaintiff's plea for urgent relief is genuine and not just a clever way to bypass the mandatory mediation process? This very question was the central theme of the case involving renowned fashion designer Rahul Mishra.



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# SIGNIFICANT CASE LAWS

## SC Rejects Pernod Ricard's Plea: No Deceptive Similarity Between 'Blenders Pride/Imperial Blue' and 'London Pride'

The Supreme Court of India in the case of Pernod Ricard India Private Limited & Another V. Karanveer Singh Chhabra reiterated the rule that trademark protects composite marks in their entirety, and not generic or non-distinctive components. The hon'ble court heard a civil appeal challenging the orders of Commercial court and Madhya Pradesh High Court which rejected its interim injunction. The core of the dispute revolves around alleged trademark infringement and passing off filed by Pernod Ricard, which owns the well-known whisky brands 'BLENDERS PRIDE' and 'IMPERIAL BLUE', asserting that the Respondent use of the brand 'LONDON PRIDE' for his whisky is deceptively similar. They argue that the respondent's mark copies the dominant feature "PRIDE" from 'BLENDERS PRIDE' and the overall trade dress, colour scheme, and bottle design from 'IMPERIAL BLUE', including the use of their 'SEAGRAM'S' embossed bottles. The applicant claims this is a deliberate and dishonest attempt to capitalize on their significant goodwill and reputation, causing confusion among consumers.

The Supreme Court dismissed the appeal, upholding the Commercial Court and High Court's findings that no prima facie case of deceptive similarity existed between the marks "Blenders Pride"/"Imperial Blue" and "London Pride." It reiterated that trademark protection applies to composite marks as a whole, not to common or non-distinctive elements like the word "Pride," bottle shapes, or colour schemes unless secondary meaning is established. The Court emphasized the anti-dissection rule, the perspective of an average discerning consumer, and the distinct packaging, trade dress, and dominant components of the rival marks, which eliminated any likelihood of confusion.



[VIEW JUDGEMENT](#)



# SIGNIFICANT CASE LAWS

## Delhi Court Denies Anticipatory Bail in \$18M Counterfeit Drug Case, Underscoring IPR Enforcement and Public Health Protection

In *State of Delhi v. Vicky Ramancha*, the Additional Sessions Judge, Patiala House Courts, dismissed an application for anticipatory bail in a case involving allegations of international fraud and supply of counterfeit pharmaceutical drugs, particularly Ozempic. Despite arguments of lack of territorial jurisdiction as the dispute was a commercial contract governed by arbitration under LCIA, court found that the notarization of certain documents in Delhi created a nexus with India thereby invoking Indian jurisdiction under principles of criminal conspiracy law. This affirms the principle that, even if drugs were exported abroad, Indian jurisdiction applies where part of the conspiracy (like notarization of fraudulent documents) occurred within India.

The case also underscores the intersection of criminal law with IPR enforcement, highlighting how counterfeit drug operations undermine brand integrity, violate patent and regulatory protections, and jeopardize global trust in India's pharmaceutical exports. Thus, the breach of counterfeiting in pharmaceuticals is not only an IPR breach but also a criminal offence under IPC (Sections 420/406/120B) with broader implications for fraud, public health, and safety. With respect to the grant of anticipatory bail the court weighed between individual's right to personal liberty against gravity of alleged offence, public health, flight risk, etc. The supply of counterfeit pharmaceuticals represents a direct threat to public health and safety. Hence, the court dismissed the application on anticipatory bail.





# SIGNIFICANT CASE LAWS

## Delhi High Court Reaffirms Patent Protection for Simple but Novel Ideas

In the case of *Dong Yang PC, Inc. v. Controller of Patents and Designs*, the Delhi High Court reemphasized the rule on patent protection and held that even simple yet novel ideas warrant patent protection. The court in the instant case dealt with an appeal under Section 117A of the Patents Act, 1970 filed by the appellant, Dong Yang PC, Inc., challenging the rejection of their patent application for a "Vertical Rotary Parking System" by the Controller of Patents and Designs. The Controller had rejected the application, citing a lack of inventive step— a prerequisite under Section 2(1)(ja) of the Patents Act, arguing that the claimed invention was a mere "workshop modification" of a prior patent which was also owned by the appellant. The Controller also refused to allow an amendment to the appellant's specifications.

The High Court, in the instant judgment, overturned the Controller's decision, emphasizing that the Controller's finding of obviousness was flawed and lacked proper foundation. The court noted that the Controller failed to provide any authoritative documentation to support the claim that the invention was a "mere workshop modification" or that the structural changes were "obvious" to a person skilled in the art. The court highlighted that simplicity is not a bar to patentability and that a significant time gap (10 years) between the appellant's prior patent and the new application suggests that the solution was not obvious, as no third party had arrived at a similar modification.

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# SIGNIFICANT CASE LAWS

Service Tax Not Applicable on Transfer of Film Copyright: CESTAT Rules Sale of IP is a 'Sale of Goods', Not a 'Service'

In the recent case of M/s Play House Motion Pictures Private Limited v. The Commissioner of Central Excise, Customs and Service Tax heard by the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) the tribunal held that the transfer or assignment of film copyrights amounts to a sale of goods and not a taxable service, and therefore no service tax is leviable. The central issue in the case revolved around whether service tax could be levied on the transfer or assignment of film copyrights. The appellant was a film producer, who entered into agreements for the exclusive assignment of film copyrights to distributors. The respondent, Service Tax department argued that this transaction constituted a "copyright service" under the Finance Act, 1994, and was therefore liable for service tax.

The CESTAT ruled in favour of the appellant, holding that the transfer or assignment of a copyright is a transfer of a "goods" and not a provision of "service." The tribunal clarified that once a film is produced, it becomes a tangible good, and the copyright associated with it is a form of intellectual property that can be sold. Therefore, the transaction was a sale of goods and did not fall within the ambit of "copyright service" as defined in the law. The decision was based on the interpretation of the Service Tax law and the distinction between a 'service' and a 'sale of goods,' with the tribunal concluding that no service tax could be levied on this type of transaction.



# SIGNIFICANT CASE LAWS

## No Monopoly Over Common Terms: Delhi HC Declines Yatra Online's Plea Against 'BookMyYatra'

The Delhi High Court in the recent case of Yatra Online Limited Vs. Mach Conferences and events limited refused to grant restrain against defendant Mach Conferences and Events from offering services under the marks BookMyYatra and BookMyYatra.com holding that the term “yatra” is generic and hence cannot be monopolised.

In the instant case Yatra Online Limited, a major online travel operator, filed a suit against the defendant to restrain them from using the marks BookMyYatra and BookMyYatra.com. The plaintiff argued that it had built substantial goodwill in its marks “Yatra” and “Yatra.com” since 2006, with a customer base of 15 million and turnover exceeding ₹5,600 crore, and claimed the rival marks were deceptively similar and adopted in bad faith. Mach Conferences countered that “Yatra” is a descriptive word meaning “travel,” used widely by multiple operators across India, and pointed out that Yatra’s trademark registrations carried disclaimers denying exclusivity over the word. Justice Tejas Karia of the Delhi High Court dismissed Yatra’s plea and held that “Yatra” is generic and descriptive for travel services and cannot be monopolized, and the plaintiff’s own registrations included disclaimers to this effect.





# SIGNIFICANT CASE LAWS

## Delhi High Court Grants Dynamic Injunction to FanCode Against Live Sports Piracy

The Delhi High Court in its recent judgments reinforces strong judicial support for protecting broadcast rights of sports aggregators against real-time piracy. In *Sporta Technologies Pvt Ltd (FanCode) vs John Doe*, the court granted an ex-parte ad-interim dynamic injunction against rogue websites and mobile applications found to be illegally streaming sports content exclusively licensed to FanCode. Justice Manmeet Pritam Singh Arora held that Sporta, which also operates Dream 11, had established a prima facie case under Section 37 of the Copyright Act, 1957 and its trademark rights in “FanCode.” The Court emphasized that piracy during live telecasts causes irreparable harm and substantial revenue loss, and therefore immediate protection was warranted.

By its order, the Court restrained defendants from streaming or providing access to FanCode’s content, suspended infringing domains, and directed DoT, MeitY, and ISPs to block access within 36 hours. Further, FanCode was permitted to directly notify authorities of mirror or new rogue sites for immediate blocking within 24 hours, subject to subsequent affidavit filings. The order underscores the judiciary’s firm stance on safeguarding the broadcast rights of sports aggregators against live piracy, with the case scheduled for its next hearing in January 2026.



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# SIGNIFICANT CASE LAWS

## Bombay High Court Rules Film Titles Not Protected Under Copyright; Dismisses Lootere Injunction Plea

The Bombay High Court in the case of Sunil Darshan Saberwal v Star India Pvt. Ltd has dismissed an interim injunction plea filed by the applicant who sought to restrain the release of the web series Lootere on Disney+ Hotstar (now JioHotstar). The applicant was a producer of the 1993 Hindi film Lootere, and held registration of the title in the year 2010 with the Western India Film Producers Association (WIFPA) and claimed that such registration, along with his film copyright, entitled him to exclusive rights over the title.

Justice Sandeep Marne held that mere registration of a film title with an industry association does not create any statutory right under copyright law. The Court clarified that a film title does not constitute a “work” under Section 2(y) of the Copyright Act, and hence, no copyright can subsist in a mere title. Further, association-based registrations were described as internal, private arrangements enforceable only between members, and having no legal sanctity against third parties. Considering the plaintiff’s delay in filing the suit and the fact that the web series was already streaming, the Court found no prima facie case and ruled that the plea for interim relief had become infructuous.



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# REGULATORY UPDATE:

India's Patents Act Undergoes a Major Overhaul: The Draft Patent (Amendment) Rules, 2025

# MINISTRY OF COMMERCE AND INDUSTRY

( DEPARTMENT FOR PROMOTION OF INDUSTRY AND INTERNAL TRADE )

India has taken a significant stride towards modernising its intellectual property framework with the publication of the Draft Patent (Amendment) Rules, 2025. This pivotal move is a direct result of the Jan Vishwas (Amendment of Provisions) Act, 2023, a landmark legislation aimed at fostering a more business-friendly and trust-based governance environment. The core philosophy driving this change is a fundamental shift in how patent offenses are handled moving away from the threat of criminal prosecution and imprisonment towards a system of civil, administrative penalties.

The Jan Vishwas Act marked a monumental change by decriminalising minor offenses across various central laws. For patent law, this means a significant restructuring of penalties. For instance:

**Unauthorised Claim of Patent Rights (Section 120):** The penalty has been drastically increased to up to INR 10 lakh, with an additional INR 1,000 per day for ongoing violations. This replaces the previous system, which included a fine and the possibility of imprisonment.

**Wrongful Use of 'Patent Office' (Section 121):** This offense has been completely ...



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# TRAINING AND EVENTS

## International Conference on Role of IPR in Indigenous Knowledge System and Viksit Bharat

Organised By: Indian Institute of Technology Bombay



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Mumbai, India

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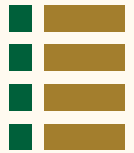
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