



# IPR INSIGHTS

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



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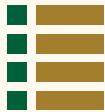
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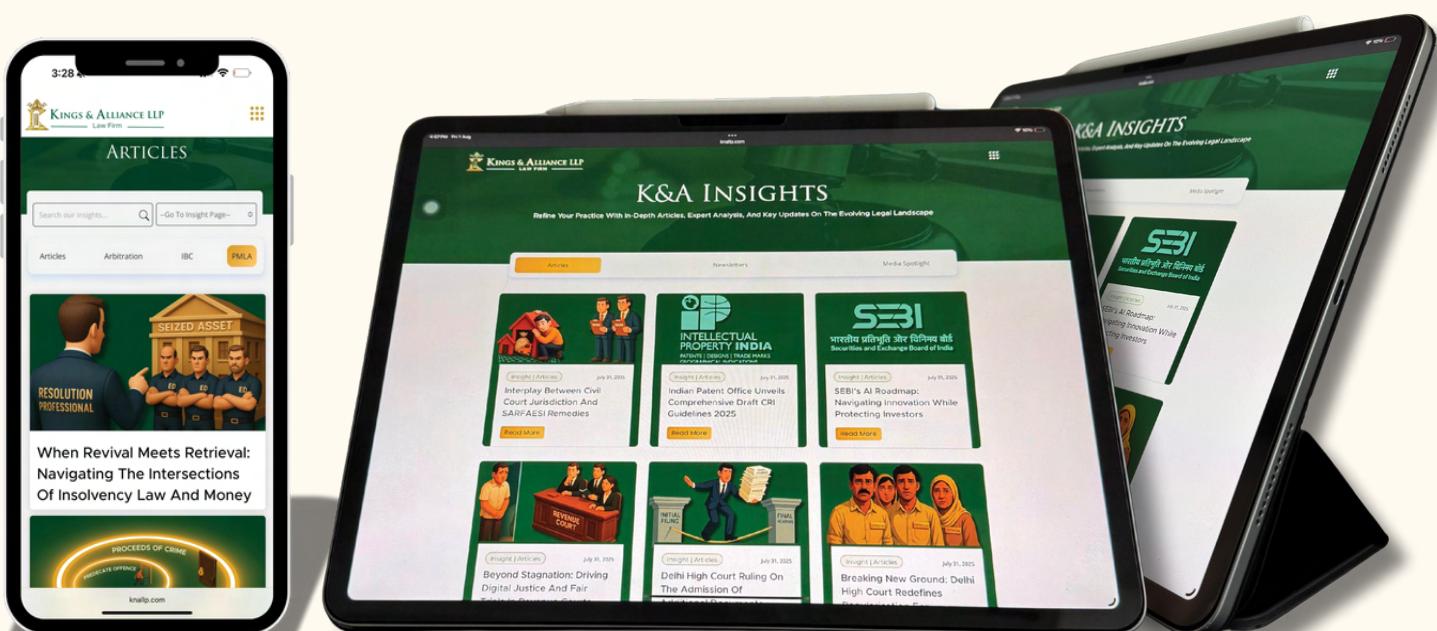
**Defending Value, Defining Truth.** our cover story of this month captures a seismic shift in trademark jurisprudence, examining how Indian courts are dispensing with the traditional requirement of prior notice when faced with the blatant fraud of "triple identity" and dishonest adoption.

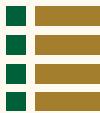
This evolution marks a turning point where the law prioritises the preservation of hard-earned goodwill over procedural shields, ensuring that justice is not just fair, but fast. This edition of IPR Insights further explores the "**intangible revolution**," where intellectual property has officially overtaken physical assets to become the primary currency of modern M&A, alongside a fascinating look at the Delhi High Court's efforts to **exorcise the "phantoms" of domain name fraud that haunt the digital marketplace**.

We also navigate the quiet but profound reset of India's nuclear patent architecture under the **SHANTI Act, 2025**, which marks a transition from absolute exclusion to a strategic, calibrated model for civilian innovation. From decoding how employment agreements are simplifying the "**Proof of Right**" for patent filings to analysing **China's new 2026 Invalidation Reforms**, this month's digest is designed to help you master the boundaries of modern ownership. As the legal framework moves toward authenticity over anonymity and precision over paperwork, we invite you to explore the insights that are keeping the industry ahead of the curve.

Let's dive in.

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## COVER STORY

04

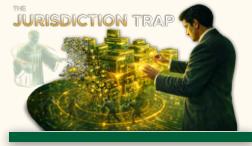
Analysing Triple Identity and Dishonest Adoption as Grounds for Dispensing with Notice in 2026 Trademark Jurisprudence



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# COVER STORY

Analysing Triple Identity and Dishonest Adoption as Grounds for Dispensing with Notice in 2026 Trademark Jurisprudence

PROCEDURAL FAIRNESS  
ENDS WHERE

## DISHONEST ADOPTION BEGINS



*Natural justice is a shield for the innocent, not a sanctuary for the calculated infringer.*



Is procedural fairness still absolute when infringement is blatant, deliberate, and ongoing? Can courts afford the luxury of notice when delay itself becomes the infringer's greatest ally? As we navigate the legal landscape of 2026, Indian trademark jurisprudence increasingly answers these questions in the negative. There is an emerging judicial consensus that where triple identity and dishonest adoption are clearly established, the requirement of prior notice before granting interim relief must yield to the imperatives of justice, consumer protection, and the preservation of trademark goodwill. The Delhi High Court has led this doctrinal shift, situating ex parte ad interim injunctions not as procedural anomalies, but as necessary tools against calculated infringement. The recent decision in *Delhi Public School Society v. Delhi Public School International Bhiwadi & Ors.* exemplifies this maturity, proving that the law can be both fair and fast.

The legal framework for this evolution rests upon Section 29 of the Trademarks Act, which defines infringement as the unauthorised use of an identical or deceptively similar mark likely to cause confusion. While remedies include injunctions and damages, the procedural gateway is governed by Order XXXIX of the Civil Procedure Code. Traditionally, this requires notice to the opposite party to uphold the principles of natural justice and protect a defendant's right to be heard. However, the courts in 2026 recognise that this procedural shield can be weaponised. In fast-moving commercial contexts, particularly those involving digital platforms or educational institutions, the flexibility to grant injunctions without notice...



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# PIVOTAL ISSUES

Digital Deception or Judicial Defence: How the Delhi High Court is Exorcising the 'Phantoms' of Domain Fraud

THE

## JURISDICTION TRAP



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*A domain name is the 'Online Soul' of a business, the law must ensure it isn't haunted by phantoms of fraud.*

In an era where a domain name is the "Online Soul" of a business, can the judicial system effectively exercise the phantoms of cyber fraud that haunt the digital marketplace? The Delhi High Court addressed this existential threat in the landmark case of Colgate Palmolive Company & Anr. v. NIXI & Anr.. This judgment transcends traditional trademark litigation, orchestrating a systemic overhaul to dismantle the infrastructure of domain name fraud and protect the "gullible and innocent" public from being duped by sophisticated digital masquerades.

The crisis originated from a calculated pattern of "engine[s] for large scale deception" where unknown perpetrators registered domain names such as colgatepalmoliveindia.in to impersonate iconic brands. These fraudsters, often hiding behind "privacy protect" features that mask their identities from trademark owners, established websites that mirrored official corporate platforms. Under the guise of legitimate HR departments or authorised distributors, they solicited substantial "deposits" from job seekers and entrepreneurs, only to vanish once the funds were withdrawn from temporary, untraceable bank accounts. This case was not an isolated grievance; it was the focal point of a massive batch of suits involving global giants like Amul, Bajaj Finance, and Apple, all battling the same "systemic" plague of cyber-anonymity. The Court's intervention draws a crucial distinction between legitimate privacy and strategic anonymity. While privacy safeguards are essential for whistleblowers, activists, and vulnerable users, their indiscriminate application to...

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# PIVOTAL ISSUES

The Intangible Revolution: Why Intellectual Property is the New Currency of Merger and Acquisition

## TRADE SECRETS or TICKING TIME BOMBS



*The corporate world has undergone a seismic transformation"*

In the modern economy, is the company that masters intellectual property truly prepared to unlock the hidden value driving corporate transformation, or will they be blindsided by the invisible risks inherent in intangible assets? The corporate world has undergone a seismic transformation. Where yesterday's acquisitions targeted physical factories and machinery, today's most ambitious mergers focus on Intellectual Property (IP) as the primary source of value creation. This shift is not merely conceptual; it is measurable. In 1975, intangible assets accounted for only 17% of the S&P 500's market value. By 2026, that figure has climbed to a staggering 90%, signaling a decisive reorientation of economic power from tangible industrial assets to knowledge-based resources.

The rationale behind IP-focused M&A is often rooted in Market Exclusivity and Speed to Market. Under Section 48 of the Patents Act, 1970, a patent provides a twenty-year monopoly, allowing an acquirer to command premium pricing. This was vividly demonstrated in the global acquisition of WhatsApp by Meta (formerly Facebook). The primary driver was not WhatsApp's immediate revenue, but its proprietary data processing algorithms and the "Network Effect" of its user base intangible assets that provided Meta with an unassailable lead in communication technology. Similarly, in *Dharamshila Belting Pvt. Ltd. v. Deepak Bansal* (2020), the court highlighted the "Triple Identity" of trademarks, reinforcing that identical marks in identical trade channels lead to a "mathematical certainty" of confusion. For an M&A acquirer, this case underscores that the value of a brand lies in...



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# PIVOTAL ISSUES

## Reimagining India's Nuclear Patent Landscape: From Absolute Bars to Strategic Calibration

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*Any invention relating to 'atomic energy' was automatically excluded from patentability.*

### INDIA'S New Nuclear Patent Architecture



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The architecture of India's nuclear patent regime is undergoing a quiet but profound reset, transitioning from a philosophy of complete exclusion to a model of conditional permission. With the enactment of the Sustainable Harnessing and Advancement of Nuclear Energy for Transforming India (SHANTI) Act, 2025, the nation has moved away from treating all atomic energy inventions as inherently sensitive. The question for the Indian Patent Office is no longer whether an invention touches nuclear energy at all, but rather whether it is strategically sensitive or primarily a peaceful, commercial technology.

For over six decades, Section 4 of the Patents Act, 1970, read alongside Section 20 of the Atomic Energy Act, 1962, functioned as a blunt legal instrument. Under this previous regime, any invention relating to "atomic energy" was automatically excluded from patentability, irrespective of whether the subject matter was a high-stakes fuel cycle step or a routine hospital imaging device. The state asserted total control, viewing private intellectual property rights as incompatible with the security needs of a young nuclear program. The SHANTI Act rewrites this architecture by introducing a specialised filter through Section 38. This provision now authorises the Central Government to permit patents for inventions "for the peaceful uses of nuclear energy and radiation," while maintaining clear boundaries for state-reserved activities. This transition signifies a move toward calibrated control, where the state aims to protect its strategic core while finally opening a door for civilian innovation. A critical question for the industry is: what remains under lock and key? The Act establishes...

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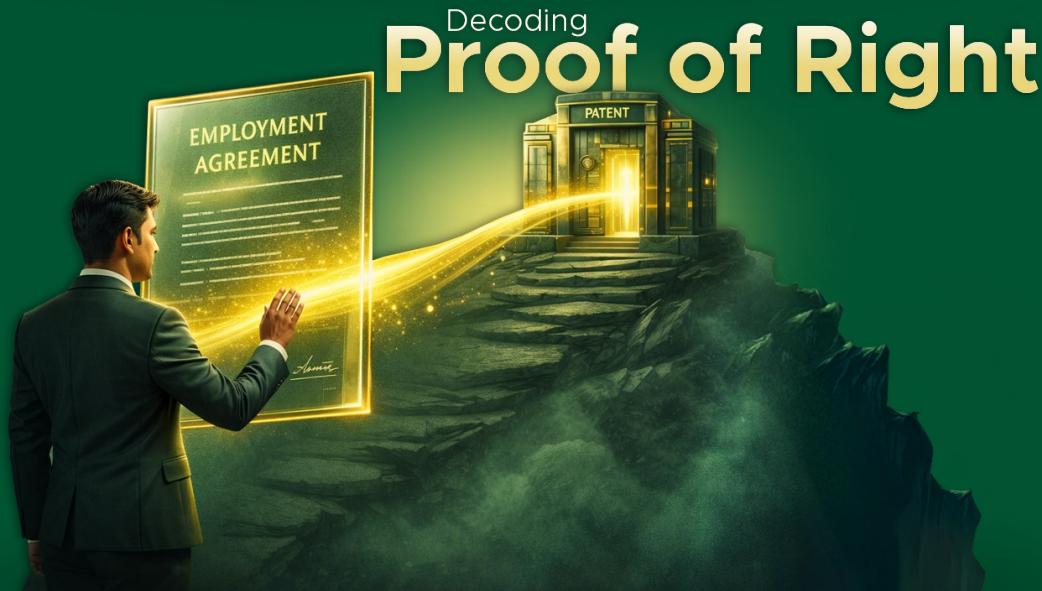


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# PIVOTAL ISSUES

Decoding "Proof of Right": How Employment Agreements Shape India's Patent Filing Landscape



*"Procedural laws are intended to subserve, and not to subvert, the cause of justice."*

India's patent landscape is undergoing a significant shift from a rigid, paperwork-heavy process to a more practical, contract-based approach for verifying ownership. Historically, Section 7(2) of the Patents Act forced companies to meet strict requirements to prove their right to file an application, often demanding specific assignment deeds that were difficult to obtain if an inventor had already left the organization. However, in the landmark case of Nippon Steel Corporation v. Controller of Patents (2025), the Delhi High Court clarified the legal standing of employment agreements as "proof of right." This shift ensures that patent protection is based on the actual legal relationship between an employer and an employee, preventing administrative formalities from blocking the path of genuine innovation.

The primary legal hurdle has long been the Patent Office's refusal to accept an Employment Agreement as sufficient proof of ownership. Under Section 7(2), if an applicant is not the inventor, they must furnish "proof of the right" to apply. The Delhi High Court decisively ruled that a signed employment agreement constitutes such proof, noting that these documents clearly demonstrate the intent of the inventor to vest intellectual property rights in the employer as part of their contractual obligations. This is supported by the judicial rationale in NTT DoCoMo Inc. v. Controller of Patents (2022), where the Court emphasized that "proof of right" should not be an insurmountable obstacle, especially when international R&D standards and PCT applications already recognize the applicant's standing. A major point of contention arises when an inventor passes away before a patent is granted.



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# SIGNIFICANT CASE LAWS

Madras High Court Upholds Validity of Dutch Giant's Food Processor Patent; Dismisses Local Firm's Revocation Plea

The Madras High Court in *Maya Appliances Private Limited v. Versuni Holding B.V.* (2025) recently dismissed a patent revocation petition filed by the Chennai-based Maya Appliances against a food processor patent held by the Dutch company Versuni Holding B.V. (formerly part of the Philips Group). Justice N. Senthilkumar ruled that the petition was not maintainable because Maya Appliances had already challenged the validity of the same patent as a defense in an ongoing infringement suit at the Delhi High Court. The court relied on the Supreme Court's precedent in *Alloys Wobben v. Yogesh Mehra*, which established that once a party chooses to contest a patent's validity in an infringement suit, they cannot "re-agitate" that same issue in a separate forum.

The ruling serves as a significant check against "forum shopping", the practice of filing cases in different courts to see which one provides a more favorable outcome. By examining Sections 64 and 107 of the Patents Act, the court clarified that a defendant must stick to the legal path they have already chosen. Since the validity of the food processor patent was already under scrutiny in Delhi, the Madras High Court held that allowing a parallel proceeding would lead to procedural chaos and potentially conflicting judgments.



[VIEW JUDGEMENT](#)



# SIGNIFICANT CASE LAWS

Delhi Commercial Court Permanently Injuncts Faridabad Manufacturer from Using “BONGCHIE” and “PERFECT ROLL” Trademarks

A Commercial Court at Tis Hazari, Delhi, Bongchie India Private Ltd. v. Mrs. Chandra Kumari & Anr. has permanently restrained Ish Nagpal, a Faridabad-based manufacturer, from using the trademarks “BONGCHIE” and “PERFECT ROLL” on smoking paper products, after counterfeit goods bearing the marks were recovered from his premises. In a judgment dated January 5, 2026, District Judge Harish Kumar partly allowed a suit filed by Bongchie India Private Limited, holding that the plaintiff had established valid trademark rights and substantial goodwill in the market. The Court rejected Nagpal’s claim that the seized goods were genuine products kept for research purposes, noting the absence of invoices or documentary proof to justify possession of large quantities of branded material.

The Court observed that once possession of infringing material was established, the burden shifted to the defendant to explain its lawful origin, which Nagpal failed to do. Consequently, the Court held that the goods were intended for misuse, amounting to trademark infringement and passing off, and permanently restrained Nagpal and those acting on his behalf from using the impugned marks or any deceptively similar variants. However, the Court declined to grant relief against co-defendant Chandra Kumari due to inconsistencies in the inspection report and insufficient similarity of the seized material, and also refused to award damages or order rendition of accounts for want of proof of actual loss, thereby partly decreeing the suit in favour of Bongchie India.



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# SIGNIFICANT CASE LAWS

## Calcutta High Court Sets Aside Patent Office Order Rejecting US Company's Glass Fibre Patent

In the case of OCV Intellectual Capital LLC v. The Controller General Of Patent Calcutta High Court Sets Aside Patent Office Rejection of Owens Corning Subsidiary's Glass Fibre Patent Application. The Calcutta High Court has set aside a Patent Office order rejecting a patent application filed by OCV Intellectual Capital LLC, a subsidiary of Owens Corning, holding that the refusal lacked proper reasoning on novelty and inventive steps. In a judgment dated January 6, 2026, Justice Ravi Krishan Kapur observed that the Patent Office had rejected the application without engaging with the company's technical submissions or explaining how the cited prior art anticipated or rendered the claimed invention obvious. The Court emphasised that merely listing prior art references, without a reasoned analysis, does not satisfy the legal requirement for a valid refusal order.

The Court also highlighted the importance of the doctrine of "teaching away," noting that the Patent Office failed to examine whether the prior art discouraged the path taken by the inventor or whether the claimed glass fibre composition produced a technical effect or synergy. Finding that key contentions regarding the development of lower-cost, high-performance glass through a refractory-lined furnace process were not addressed at all, the Court held the rejection to be unsustainable. Accordingly, the refusal order was set aside and the matter remanded to the Patent Office for fresh consideration in accordance with law.



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# SIGNIFICANT CASE LAWS

Crompton Greaves Consumer Electricals Limited v. Wipro Enterprises Private Limited & Anr.

In this case Crompton Greaves Consumer Electricals Limited v. Wipro Enterprises Private Limited & Anr., Madras High Court Orders Removal of Wipro's "PREMIO" Trademark for Non-Use Beyond Five Years. The Madras High Court has directed the removal of the trademark "PREMIO" registered in favour of Wipro Enterprises Private Limited, holding that the mark had not been put to genuine commercial use for over five years. In an order dated December 16, 2025, Justice N. Senthilkumar allowed a rectification petition filed by Crompton Greaves Consumer Electricals Limited, observing that despite obtaining registration, Wipro had failed to demonstrate any actual trade or bona fide intention to use the trademark. The Court noted that continuous non-use for the statutory period squarely attracted Section 47 of the Trade Marks Act, 1999.

The dispute arose when Crompton Greaves, while seeking registration of its mark "PREMION" for ceiling fans, discovered Wipro's prior registration for "PREMIO" in Class 11. Crompton established non-use by relying on affidavits from dealers across India, while Wipro failed to produce sales figures, advertisements, product samples, or any enforcement action against Crompton. Rejecting Wipro's defence that non-use alone was insufficient for cancellation, the Court held that the evidence clearly showed prolonged non-use without justification, and accordingly directed the Trade Marks Registry to remove the "PREMIO" mark from the register.



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# SIGNIFICANT CASE LAWS

## Bombay High Court Imposes 15 Lakh Cost On Anrose Pharma For Infringing 'ZERODOL' Trademark

Bombay High Court in the case of *IPCA Laboratories Limited v. Anrose Pharma*, Injuncts Anrose Pharma for Infringing IPCA's 'ZERODOL' Trademark, Imposes ₹15 Lakh Costs. The Bombay High Court has held that Anrose Pharma's use of the trademark "ZEROVOL-P" for pharmaceutical products amounted to infringement and passing off of IPCA Laboratories Limited's registered mark "ZERODOL." Justice Arif S. Doctor observed that in cases involving medicinal products, courts must apply a stricter standard of comparison, as even a likelihood of confusion can pose serious risks to public health. The Court found that the rival marks were visually and phonetically almost identical, sharing a deceptively similar essential and dominant feature, and held that the defendant had failed to justify its adoption of the impugned mark or establish any bona fide use.

The Court further noted that Anrose Pharma chose not to appear or contest the proceedings despite due service, reinforcing the inference of dishonest adoption and bad faith. While declining to award damages due to lack of proof of actual loss, the Court emphasised that the matter being a commercial suit attracted Section 35 of the CPC, warranting realistic and deterrent costs. Accordingly, the suit was decreed in favour of IPCA Laboratories Limited, a permanent injunction was granted restraining use of the mark "ZEROVOL-P," infringing materials were directed to be delivered up for destruction, and costs of ₹15 lakh were imposed on the defendant.



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# SIGNIFICANT CASE LAWS

Madras High Court Rejects Vegan Brand Origin Nutrition's Interim Plea To Restrain 'ORIGIN FRESH' Trademark

In the case of Origin Nutrition Private Limited v. Ms Tech Phyl Private Limited & Anr., Madras High Court Denies Interim Injunction in "ORIGIN" Trademark Dispute Between Vegan Protein Maker and Fruit Retailer. The Madras High Court has refused to grant interim relief to Origin Nutrition Private Limited in its trademark infringement dispute with Tech7 Phyll Private Limited over the use of the marks "ORIGIN" and "ORIGIN FRESH." In an order dated December 19, 2025, Justice N. Senthilkumar held that "ORIGIN" is a common and generic word that cannot be monopolised as an exclusive trademark. The Court also noted that the parties operate in entirely different lines of business, Origin Nutrition dealing in vegan protein and nutrition products, while Tech7 Phyll sells fresh fruits and vegetables, thereby significantly reducing any likelihood of consumer confusion.

Relying on the Supreme Court's decision in Nandhini Deluxe v. Karnataka Cooperative Milk Producers Federation Limited, the Court observed that even goods falling under the same class do not grant a proprietor monopoly over the entire class, and in the present case, the goods of the parties fell under different categories altogether. Emphasising that trademarks must be assessed as a whole and not dissected, the Court found no deceptive similarity or likelihood of confusion. Holding that Origin Nutrition failed to establish a *prima facie* case, balance of convenience, or irreparable harm, the Court dismissed the applications seeking interim injunction.



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# SIGNIFICANT CASE LAWS

## Bombay High Court Temporarily Bars Salon From Using 'Jawed Habib' Marks After Franchise Expiry

Bombay HC in case of Jawed Habib Hair & Beauty Limited v. Kavita Janki Services Private Limited has Temporarily Bars Salon from Using "Jawed Habib" Marks After Franchise Expiry. The Bombay High Court has granted ad-interim relief in favour of Jawed Habib Hair & Beauty Limited, temporarily restraining a local salon operator from using the "Jawed Habib," "Jawed Habib Hair & Beauty," and "JH" names and logos after the expiry of a franchise agreement. In an order dated January 6, 2026, Justice Sharmila U. Deshmukh held that continued use of the marks beyond the franchise period amounted to *prima facie* trademark and copyright infringement. The Court observed that the franchise agreement clearly established Jawed Habib's ownership of the marks and did not permit any independent right of use after its expiry.

The Court noted that despite the franchise ending in May 2017 and issuance of a cease-and-desist notice, the defendant continued to use the brand for identical salon services. Finding that the plaintiff had made out a strong *prima facie* case and that no probable defence was available to the defendant, the Court granted ad-interim injunction restraining the salon from using the impugned marks or any deceptively similar variants until the next date of hearing. The restraint will remain in force until February 3, 2026.



[VIEW JUDGEMENT](#)



# REGULATORY UPDATE:

China's New Intellectual Property Frontier: A Deep Dive into the 2026 Invalidation Reforms



The landscape of Chinese intellectual property took a definitive turn on January 1, 2026. With the official implementation of the revised "Patent Examination Guidelines" by the China National Intellectual Property Administration (CNIPA), a new era of patent governance has begun. These revisions are not merely administrative tweaks; they represent a strategic offensive against procedural abuse and a robust defense of the principle of good faith. By tightening the reigns on requester qualifications, expanding the barriers against repetitive filings, and streamlining the mechanics of claim modifications, the CNIPA is signaling that the era of "tactical harassment" through patent invalidation is coming to a close.

Historically, the patent invalidation process in China was governed by a broad interpretation of Article 45 of the Patent Law, allowing "any entity or individual" to file a request. While this democratisation encouraged public oversight, it also birthed the "straw man" strategy, a tactic where competitors used fabricated identities or uninvolved third parties to hide their involvement and disrupt a patent holder's operations. This shift effectively codifies the principle of integrity (good faith). The 2026 CNIPA revisions mark a decisive shift from procedural complexity to principled efficiency. By stripping away the mask of anonymity, the CNIPA protects patent holders from malicious "shadow" litigation and ensures that the administrative machinery is only activated for legitimate disputes. Strengthening Res Judicata...

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