



# IPR INSIGHTS

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



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***Navigating Digital Rights***, our cover story this month examines the growing platform liability risks in online advertising, through the Delhi High Court dispute between Hindware Ltd. and Google over trademark keyword bidding.

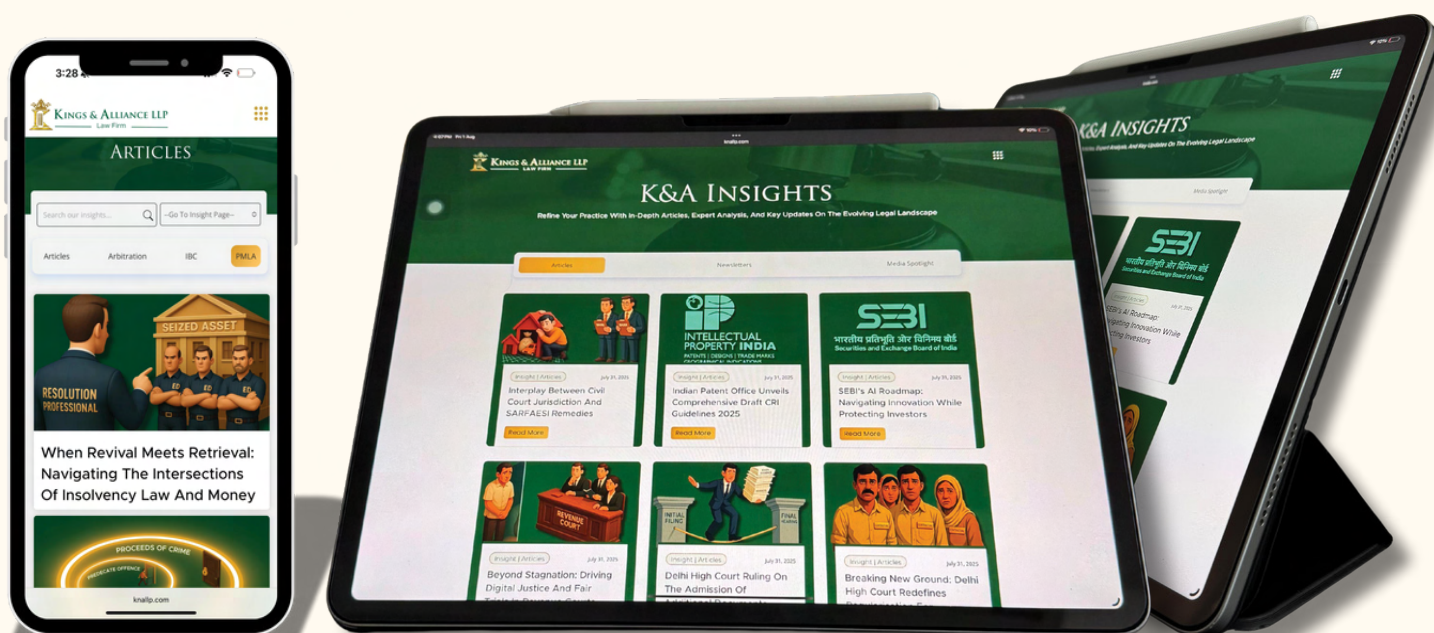
This edition also analyses the Delhi High Court's approach to pro tem security in SEP and FRAND litigation in *Malikie v. Xiaomi*, the protection of dominant trademark identities in the Select Citywalk dispute, the safeguards available to trademark proprietors under Section 25(3) in *Rajinder Singh v. Registrar of Trade Marks*, the consequences of counterfeiting and trademark infringement in the Ralph Lauren case, and the expanding boundaries of platform liability in digital marketing disputes.

Across these decisions, courts continue to define the contours of intellectual property protection in an increasingly digital and commercially complex marketplace, balancing innovation, competition, and the protection of valuable proprietary rights.

To cap it off, we bring you the latest developments from the world of intellectual property law.

Let's dive in.

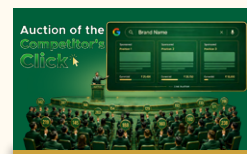
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Trademark Keyword Bidding and the Expanding Boundaries of Platform Liability: Lessons from the Delhi High Court's Hindware v. Google Ruling



## PIVOTAL ISSUES 05

Delhi High Court's Examination of Pro Tem Security in SEP and FRAND Litigation in Malikie v. Xiaomi



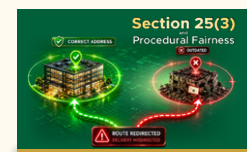
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Select Citywalk v Global Citywalk: Delhi High Court on Trademark Infringement and Deceptive Similarity



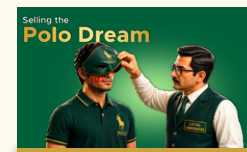
## PIVOTAL ISSUES 07

Can a Trademark Lapse Without Effective Notice? Delhi High Court Clarifies the Scope of Section 25(3)



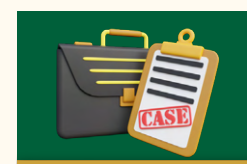
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# COVER STORY

Trademark Keyword Bidding and the Expanding Boundaries of Platform Liability: Lessons from the Delhi High Court's Hindware v. Google Ruling

## Auction of the Competitor's Click



For years, bidding on competitor trademarks has been one of the most widely used customer acquisition tactics in performance marketing. Whether labelled competitor targeting, conquest campaigns or brand interception, the objective has remained the same: capture consumers who are actively searching for a rival brand and convert that intent into your own traffic, leads and sales.

The Delhi High Court's decision in Hindware Ltd. v. Google LLC places that strategy under direct legal scrutiny. The judgment addresses a question that sits at the intersection of trademark law and digital advertising architecture: when a platform identifies, recommends, auctions and monetises trademarked search terms, can it still characterise itself as a neutral intermediary? Or does the platform become an active participant in the commercial exploitation of another's trademark?

That question lies at the heart of what this judgment ultimately examines: whether search advertising platforms are merely facilitating competition, or whether they are enabling businesses to bid on borrowed goodwill?. The dispute arose when Hindware, a leading Indian brand that specializes in sanitaryware and bathroom solutions discovered that competing sanitaryware brands were purchasing the trademark HINDWARE and related keyword combinations through Google's AdWords programme. The evidence before the Court showed that Cera Sanitaryware and Grohe had bid on Hindware's trademark and...

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# PIVOTAL ISSUES

Delhi High Court's Examination of Pro Tem Security in SEP and FRAND Litigation in *Malikie v. Xiaomi*

## Pro Tem Security in **SEP Disputes**



Can a court compel an SEP implementer to furnish interim security at a prima facie stage before final adjudication of validity, infringement, and FRAND royalties? This question lay at the centre of the Delhi High Court's decision in *Malikie Innovations Ltd. v. Xiaomi Corporation & Ors.*, a ruling that marks another significant development in India's evolving SEP jurisprudence.

SEPs are patents that protect technologies considered indispensable for implementing industry-wide technical standards such as 3G, 4G, and 5G telecommunications protocols. Because manufacturers cannot produce standard-compliant devices without using such patented technologies, SEP holders are generally required to license them on FRAND terms ensuring that access to standardised technology remains commercially fair, reasonable, and non-discriminatory. SEP disputes therefore differ from ordinary patent litigation, as courts must balance the patent rights of innovators against the need to preserve access to standardised technologies in competitive markets. The dispute before Justice Tejas Karia arose from allegations concerning the unauthorised use of patents relating to 3G, 4G, and 5G cellular technologies, but the matter extended far beyond a conventional infringement action. The case required the Court to examine how interim equitable remedies should operate where licensing negotiations have failed, parallel FRAND proceedings are unfolding across jurisdictions, and allegedly infringing products continue to remain commercially available in the market. In addressing these issues, the Court affirmed that SEP disputes...

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# PIVOTAL ISSUES

Select Citywalk v Global Citywalk: Delhi High Court on Trademark Infringement and Deceptive Similarity



When  
**GLOBAL**  
Could Not Save  
**CITYWALK**

Can the mere addition of a prefix rescue a trademark that substantially reproduces the dominant identity of an established brand? More importantly, when a commercial real estate project adopts a mark that already enjoys deep market recognition and consumer association, should courts wait for actual confusion to emerge in the marketplace, or intervene at the threshold itself? These questions formed the heart of the recent decision of the Delhi High Court in *Select Citywalk Retail Private Limited v. Garg Realtech Private Limited*, where the Court restrained the defendants from using the mark “GLOBAL CITYWALK” for a commercial real estate project.

The dispute appeared to involve a conventional trademark conflict between “SELECT CITYWALK” and “GLOBAL CITYWALK.” Yet beneath that surface lay a larger judicial concern regarding the protection of commercially powerful brands in sectors where reputation functions not merely as a business asset but as a market identity. The Delhi High Court’s decision demonstrates the increasing judicial willingness to protect the dominant and distinctive component of a trademark, especially where the competing parties operate in the same commercial ecosystem and where the likelihood of public association is immediate and commercially dangerous. The judgment also reflects the modern trajectory of Indian trademark jurisprudence, where courts are moving beyond mechanical visual comparison and are instead examining the psychological and commercial impact of marks upon an average consumer. By granting an ex-parte ad-interim injunction, the Court affirmed that...

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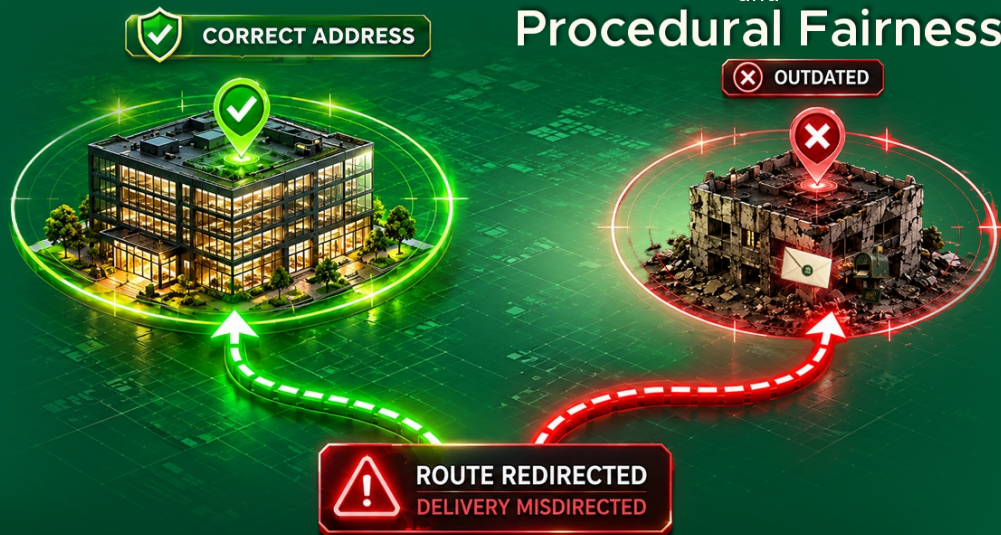
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# PIVOTAL ISSUES

Can a Trademark Lapse Without Effective Notice? Delhi High Court Clarifies the Scope of Section 25(3)

## Section 25(3) and Procedural Fairness



A trademark registration represents decades of commercial reputation, consumer trust and market goodwill. In *Rajinder Singh v. Registrar of Trade Marks*, the Delhi High Court was confronted with a troubling question: can such a valuable proprietary right be allowed to lapse simply because a renewal notice was sent to an address that the Trade Marks Registry itself had long stopped using? The case arose from the trademark “B.P.R.”, used since 1979 in relation to electrical motors, compressors and pump sets. The proprietor had applied for registration in 1999, following which the mark became embroiled in opposition proceedings that continued for several years.

During this period, the petitioner repeatedly communicated changes relating to his authorised trademark agent. The updated address appeared in various filings, powers of attorney and correspondence. More importantly, the Trade Marks Registry itself acted upon those details. Hearing notices, procedural communications and ultimately the registration certificate were all issued to the revised address. The difficulty arose in 2019 when the Registry issued the statutory renewal notice under Section 25(3) of the Trade Marks Act. Instead of using the address it had consistently relied upon throughout the proceedings, the notice was dispatched to an earlier address associated with the petitioner's former agent. The Trade Marks Registry defended its actions on a procedural ground. It argued that although updated addresses had been disclosed in several documents, the petitioner had never filed the prescribed form required for formally changing the address for service...

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# PIVOTAL ISSUES

Ralph Lauren Trademark Infringement Case: Counterfeit Goods, Territorial Jurisdiction and Damages Under the Trade Marks Act

## Selling the **Polo Dream**



Can a business deliberately ride upon the reputation of a globally recognized trademark by selling counterfeit products bearing identical branding and yet escape liability merely because the products are sold through local retail channels? This question formed the central issue before the Saket District Court, New Delhi in *The Polo/Lauren Company L.P. v. Buti Button & Anr.*, where the Court was required to examine the scope of trademark infringement, counterfeiting and judicial protection available to internationally reputed brands under the Trade Marks Act, 1999.

The judgment assumes significance because it reiterates the stringent protection according to registered trademarks under Sections 28 and 29 of the Trade Marks Act, 1999 while simultaneously emphasizing that counterfeiting constitutes one of the most egregious forms of trademark infringement. The Court also examined the principles governing territorial jurisdiction under Section 134 of the Trade Marks Act and states the growing judicial approach favoring punitive damages in cases involving deliberate commercial deception and counterfeit trade practices. The plaintiff asserted ownership over several registrations relating to the “POLO” and “RALPH LAUREN” trademarks in India and abroad and contended that the marks had acquired substantial goodwill through extensive international use in relation to clothing and lifestyle products. The dispute emerged when the plaintiff discovered that counterfeit products carrying deceptively similar branding were allegedly being sold by the defendants. The plaintiff argued that the defendants had dishonestly...

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# SIGNIFICANT CASE LAWS

## Counterfeit Networks and Trademark Piracy: Delhi High Court Protects SKF's Global Brand Identity

In *AB SKF v. M/s SNKB Bearings & Ors.*, the Delhi High Court dealt with a large-scale trademark counterfeiting and passing-off operation involving the globally reputed “SKF” mark used for bearings and industrial products. SKF, a Swedish multinational company with a long-standing global presence and registered trademark rights in India, alleged that the defendants were manufacturing, distributing, and selling counterfeit bearings using identical SKF trademarks, packaging, trade dress, and even forged authenticity certificates. Upon comparing the products, the Court found that the defendants had copied the essential features of SKF’s branding, including its colour scheme, labels, markings, and packaging, making it difficult for consumers to distinguish between genuine and counterfeit goods. The Court further observed that the defendants appeared to be part of an organised counterfeit network operating through websites, social media platforms, virtual offices, and fraudulent certification mechanisms. Holding that SKF had established a strong prima facie case of trademark infringement, passing off, and copyright infringement, the Court granted an ex parte ad interim injunction restraining the defendants from using the SKF mark or any deceptively similar branding. The Court also directed the freezing of certain bank accounts and suspension of infringing domain names, noting that counterfeit industrial products not only cause financial loss to the trademark owner but also damage brand reputation and mislead consumers.



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# SIGNIFICANT CASE LAWS

## Hindsight Analysis and Inventive Step in Patent Examination: Delhi High Court Reins in Mechanical Refusal of Patent Claims

In *Biotyx Medical Shenzhen Co., Ltd. v. Assistant Controller of Patents and Design*, the Delhi High Court set aside the rejection of a patent application relating to an “Absorbable Stent” and clarified the principles governing the assessment of inventive step under the Patents Act. The Patent Controller had rejected the application on the ground that the invention was obvious in light of two prior art documents. However, the Court found that the Controller failed to properly explain how a person skilled in the art would combine the teachings of those documents to arrive at the claimed invention. The Court noted that the appellant’s invention involved a metal-based absorbable stent with specific structural features aimed at improving both mechanical strength and absorption performance, whereas the cited prior arts primarily related to polymer-based structures. Criticising the reliance on assumptions and hindsight reasoning, the Court reiterated that patent applications cannot be rejected merely because certain features resemble existing technologies; the Patent Office must provide a clear and reasoned analysis showing why the invention would be obvious. Since the Controller had not adequately addressed the applicant’s submissions or demonstrated a proper technical pathway from the prior art to the invention, the Court quashed the refusal order and remanded the matter for fresh consideration after granting the applicant a proper hearing.



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# SIGNIFICANT CASE LAWS

## When Registration Representations Become a Double-Edged Sword: Calcutta High Court Denies Injunction to 'ONN' Trademark Holder

In *Biswanath Hosiery Mills Limited v. Anila Kedia*, the Calcutta High Court dismissed a trademark infringement appeal filed by the proprietor of the registered mark “ONN” against the use of the mark “ON & ON.” The appellant argued that the respondent’s mark was deceptively similar and amounted to infringement and passing off under the Trade Marks Act, 1999. However, the Court found a significant inconsistency in the appellant’s position. During the trademark registration process in 2011, when objections had been raised on the ground of similarity with existing marks such as “ON-N-ON,” the appellant had specifically argued before the Registrar that “ONN” was a coined expression and was visually, structurally, and conceptually different from those marks. The Court observed that having secured registration on the basis of such representations, the appellant could not subsequently claim that a similar mark, namely “ON & ON,” was confusingly similar to its own mark. On this basis, the Court upheld the Commercial Court’s refusal to grant interim injunction, holding that no prima facie case of deceptive similarity had been established at that stage. The judgment is significant because it underscores that statements and representations made during trademark prosecution can later be relied upon in infringement litigation, and a trademark proprietor may be prevented from taking a position that directly contradicts the basis on which its registration was originally obtained.



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# SIGNIFICANT CASE LAWS

## Prior Use and Proof in Trademark Infringement: Rajasthan High Court Reopens the “ENGINE” Brand Dispute

In *M/s Dhanvarsha Oil Mills Pvt. Ltd. v. M/s Hari Industries (Hari Oil Mill)*, the Rajasthan High Court examined the evidentiary requirements for proving trademark infringement and passing off based on prior use. The plaintiff alleged that the defendant’s use of the mark “METRO ENGINE” for mustard oil infringed its registered “ENGINE BRAND” trademark and obtained a permanent injunction from the Trial Court. However, the High Court found that the plaintiff had failed to produce key evidence such as invoices, sales records, advertisements, licences, or other documents necessary to establish continuous and prior use of the mark. The Court emphasized that trademark registration creates only a rebuttable presumption of validity and does not replace the need to prove actual commercial use, goodwill, and reputation. It further observed that the Trial Court had not properly compared the rival marks and had incorrectly shifted the burden of proof onto the defendant. The Court also noted doubts regarding the plaintiff’s legal standing due to the absence of documents establishing the constitution of the firm. Accordingly, the High Court set aside the injunction and remanded the matter for fresh adjudication, allowing both parties to produce additional evidence regarding trademark use, goodwill, and commercial reputation.



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# SIGNIFICANT CASE LAWS

## Patent Timelines and Priority Disclaimer: Delhi High Court Upholds Mandatory Nature of National Phase Deadlines

In *Neurocentria, Inc. v. Controller of Patents*, the Delhi High Court considered whether a patent applicant could retrospectively disclaim its earliest priority date to overcome delays in entering the Indian national phase under the Patent Cooperation Treaty (PCT) and filing a Request for Examination (RFE). The appellant argued that the delay resulted from the negligence of its former patent agent and sought to rely on a later priority date by amending the application. However, the Court held that the statutory timelines for national phase entry and filing an RFE are mandatory and cannot be extended through subsequent amendments. It observed that the applicant had omitted the earliest priority date in an attempt to avail longer timelines and that permitting a retrospective disclaimer would undermine the statutory framework governing patent prosecution. Relying on earlier precedents, the Court reiterated that non-compliance with the prescribed timelines results in the application being deemed withdrawn by operation of law, leaving no discretion with the Patent Office to revive it. The Court further distinguished cases where relief had been granted for patent agent negligence, noting that those involved procedural defects capable of correction, whereas the present case concerned statutory deadlines expressly excluded from extension. Accordingly, the appeal was dismissed, reaffirming the strict and inflexible nature of patent filing timelines under Indian patent law.



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# SIGNIFICANT CASE LAWS

## The Jurisprudence of Digital Persona Protection: Enforcing Personality Rights and Anti-Piracy Mandates Against Content Scraping Software

In *Karl Edward Rice v. Adam El-Megrisi & Ors.*, the Commercial Court granted an ex-parte permanent injunction and damages in favor of Karl Edward Rice, a well-known travel vlogger and digital content creator, whose videos, voice, likeness, and online persona were allegedly scraped and commercially exploited by an AI-driven platform called VidBrew without authorization. The platform was accused of using the plaintiff's content to train machine learning models and generate cloned derivative content, thereby monetizing his digital identity without consent. Since the defendants failed to appear despite proper service, the Court relied on the plaintiff's un rebutted evidence and forensic data. The Court held that a creator's digital persona, voice, facial features, and distinctive presentation style constitute valuable intellectual property and personality rights that cannot be reproduced or commercially exploited under the guise of AI technology. Accordingly, it restrained the defendants from further use of the plaintiff's content and likeness, directed the removal of infringing URLs and automated channels from online platforms, and awarded ₹5 lakh in damages along with ₹2 lakh in litigation costs. The judgment is significant as it recognizes the growing need to protect digital creators against AI-driven piracy and establishes that technological innovation cannot override copyright, trademark, and personality rights.



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# SIGNIFICANT CASE LAWS

## Judicial Enforcement Against Counterfeiting: Protecting Transnational Luxury Trademarks and Goodwill Under the Commercial Courts Act

In *Hugo Boss AG v. Shubham Jain*, the Delhi High Court granted an ex-parte ad-interim injunction in favor of Hugo Boss AG, protecting its globally recognized “BOSS” and “HUGO BOSS” trademarks from infringement and dilution. The plaintiff alleged that the defendant, operating as Panipat Handlooms in Delhi, was manufacturing and selling low-quality bedding, home linen, and bath towel products bearing identical trademarks through online and offline channels. Relying on the Supreme Court’s decision in *Yamini Manohar v. T.K.D. Keerthi*, the Court exempted the plaintiff from mandatory pre-institution mediation due to the urgency of the matter. Upon examining the evidence, the Court found a strong prima facie case of trademark infringement and passing off, observing that the defendant was attempting to exploit the plaintiff’s established goodwill and mislead consumers by creating an association with the luxury brand. The Court noted that continued circulation of such counterfeit products could cause significant reputational and commercial harm to the plaintiff. Accordingly, it restrained the defendant from manufacturing, selling, advertising, or dealing in products bearing the infringing marks and appointed a Local Commissioner to inspect the premises, seize counterfeit goods, and collect relevant records and materials. The order highlights the judiciary’s proactive approach in protecting well-known trademarks and preventing the unauthorized commercialization of globally reputed brands.



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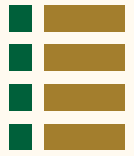
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