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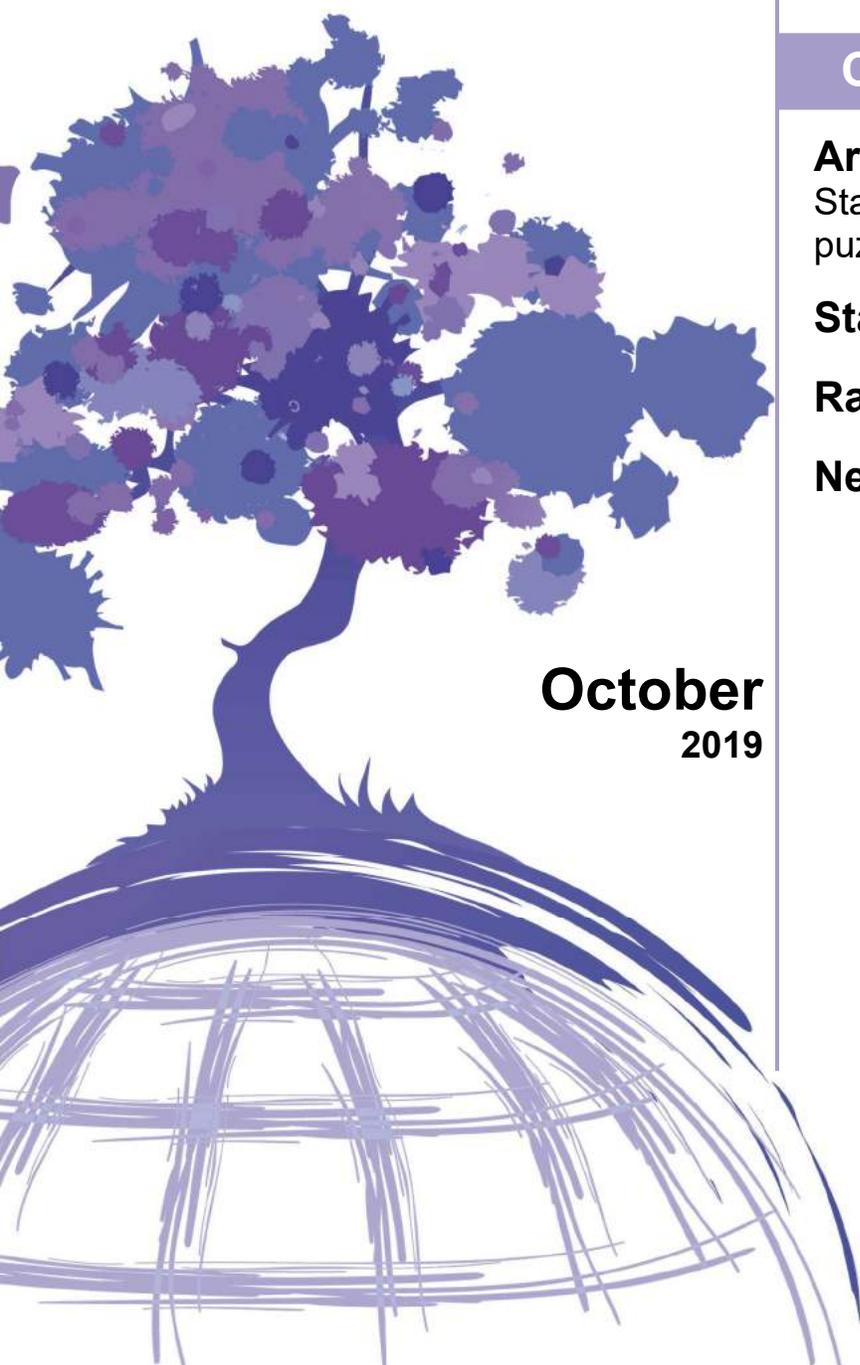
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Article

State Biological Diversity Rules – A puzzle waiting to be solved.

By **Dr. Vasanth Vaidyanathan and Dr. Malathi Lakshmikumaran**

India ratified the Convention on Biological Diversity (CBD), which was held in Rio de Janeiro, Brazil, in 1992¹ by becoming a Party to it on February 1994. Thus, began India's tryst with biodiversity-related laws, whereby the country started to tread on a path to fulfill the three objectives laid down by the CBD, namely, conservation of biological diversity, sustainable use of its components, and fair and equitable benefit sharing arising out of the use of the biological resources and knowledge. In order to give effect to its obligations under the CBD, India enacted the Biological Diversity Act, 2002 on 5th February 2003, and by 1st July 2004 all the sections of Biological Diversity Act, 2002, (Act) were in force.

Since flora and fauna of the country is widespread, the Act facilitates a three-tiered structure, one at the national level, second at the state level and third at the local level to be curated by National Biodiversity Authority (NBA), State Biodiversity Boards (SBB), and Biodiversity Management Committees (BMC) respectively, which are statutory bodies established under the Act. The Act has provided distinct roles and powers to the NBA and the SBBs.

Overview – Powers and functions of NBA and SBB

Section 18 of the Act lays down certain powers and functions of the NBA, which includes regulating activities mentioned in Sections 3, 4,

and 6 of the Act. As per Section 3 of the Act, a person not being a citizen of India, a person being a citizen but a non-resident as per Section 2 of the Income Tax Act, 1961, and a body corporate having any foreign participation in its share capital or management require prior permission from the NBA before accessing any biological resource occurring in India or knowledge associated thereto for the purpose of research, or commercial utilization, or bio-survey and bio-utilization. As per Section 4 of the Act, results of research relating to any biological resource occurring in or obtained from India should not be transferred to any person specified in Section 3(2) of the Act without taking the prior permission from the NBA. Section 6 of the Act mandates prior approval from the NBA before applying for any intellectual property right (IPR) for any invention based on any research or information on a biological resource obtained from India, said section is applicable for Section 3(2) entities as well as for non-Section 3(2) entities. In the case of patents, such patents shall not be granted until the approval from the NBA is obtained. Further, Section 20 of the Act makes it clear that no person who has been granted approvals under Section 19 of the Act shall transfer the biological resource to a third party, except after obtaining the prior permission from the NBA. The above permissions from the NBA are to be sought by way of applications under specific forms provided under the Biological Diversity Rules, 2004.

¹ <https://www.cbd.int/convention/>

Section 7 of the Act requires any Indian person or entity which has no foreign participation in its share capital or management to provide prior intimation to the concerned SBB(s) before obtaining any biological resource from the specific state(s) for commercial utilization or for bio-survey and bio-utilization for commercial utilization. Access of biological resources for the purposes of research by any Indian person or entity [other than a Section 3(2) person] does not require even prior intimation under section 7. Section 24 of the Act provides powers to SBB for restricting or prohibiting the activities contemplated in the intimation requests received under Section 7 of the Act, if the SBB is of the opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity. Further, no order can be issued by the SBB without giving the person making the intimation under Section 7 of the Act, an opportunity of being heard. Section 23 of the Act lays down the functions of SBB, whereby, SBBs shall advise the State Governments, subject to any guidelines issued by the Central Government, on the objectives of the Act, regulate the access or approvals for commercial utilization or bio-survey and bio-utilization by Indian entity, and perform such other functions as may be necessary to carry out the provisions of the Act or as laid down by the State Government.

From the afore-mentioned explanation of various sections, it is clear that the Act mandates a prior approval from the NBA for entities falling under the scope of Section 3(2) of the Act for accessing Indian biological resource for any of the specified activities (i.e. research, commercial utilization, or bio-survey and bio-utilization), whereas for wholly Indian entities or non-Section 3(2) entities, only

prior intimation to the concerned SBB is required and that too only for activities pertaining to commercial utilization, or bio-survey and bio-utilization for commercial utilization. Thus, a bare perusal of the provisions of the Act indicates that for accessing biological resources by Indian entities for the purpose of research no approval or intimation to the SBB is required. But is this really the case? It appears to be not so as can be seen from the Rules framed by certain State Governments under Section 63 of the Act.

The dichotomy between Biological Diversity Act and State Biodiversity Rules

It is observed that certain States have inserted in their rules, a requirement for Indian entities to make prior intimation to the SBB for accessing Indian biological resource even for conducting research. Around 15 states² which have mentioned such a requirement in their rules are Kerala, Sikkim, Maharashtra, Arunachal Pradesh, Uttarakhand, Manipur, Meghalaya, Tripura, Andhra Pradesh, Telangana, Uttar Pradesh, Nagaland, Gujarat, Mizoram, and Bihar. Not very surprisingly, even the requirement of intimation for access pertaining to research has been captured in different ways by the various States.

Taking for instance, the case of Arunachal Pradesh, Rule 17(1)³ of the said State's Biodiversity Rules recites that: *Any person seeking access to/collection of biological resources and associated knowledge for **research** or for commercial utilization shall make an application to the Board in Form-1 Part A and B appended to these rules. Every application shall be accompanied by a fee of Rs. 100/- per*

² <http://nbaindia.org/link/241/34/1/SBBs.html>

³ http://nbaindia.org/uploaded/pdf/notification/Arunachal_pradesh_Rules.pdf

species/items for government institution and Rs. 500/- for others either in Cheque/Drafts/ Treasury Challan or Cash. The commercial utilization fee for biological resources (other than scheduled flora, fauna and microbes) shall be decided by the Board from time to time.

Sikkim Biodiversity Rule 17(1)⁴ recites: *Any person seeking access to or collection of biological resources and associated knowledge for **research** or for commercial utilization shall make an application to the Board in Form-1 as given in the schedule. Every application shall be accompanied by a fee of Rs. 100/- in case such access is for research purpose and Rs. 1000/- for commercial utilization and shall be in form of a Cheque or demand draft.*

Even though both the above-mentioned rules differ with respect to the fee charged for the application, both of them mandate the requirement for filing a Form and thereby seeking permission for accessing the biological resource for the purpose of research. Further, it is to be noted that the heading given for Rule 17 for both the said State Biodiversity Rules is as follows: *“Procedure for access to or collection of biological resources (section 24 of the Act)”*. Section 24 of the Act, as discussed above provides powers to SBBs for restricting or prohibiting access to the intimation requests received under Section 7 of the Act, and Section 7 of the Act is applicable only to non-section 3(2) entities or wholly Indian entities. In this regard, a dichotomy is visibly evident between the provisions mentioned in the Act and those specified by State Biodiversity Rules as framed by some of the States, which is, *firstly* that the States have interpreted prior intimation as prior approval such that they have also included application forms and fees for the same.

Secondly, whereas intimation for research is not at all required as per Section 7 of the Act, the State Biodiversity Rules mandate making an application for approval even if the accession is for research. Can the State Biodiversity Rules travel beyond the scope and ambit of the provisions of the Act? The answer is No. Thus, the requirement of prior approval for accessing biological resources for research is clearly ultra vires the Act.

Provision of “voluntary” disclosure – An enigma

Another interesting aspect is Rule 4(1)⁵ of the State Biodiversity Rules formulated by Punjab, which covers the procedure for prior intimation and approval for commercial utilization of biological resources. Despite the fact that the said Rule adds the word “approval” which is not contemplated under Section 7 of the Act, the Rule otherwise seems to be in consonance with the Act as it does not deal with the research aspect. However, Rule 4(5) of the said Rules provides for voluntary disclosure which recites: *“For the voluntary disclosure for access of biological resources for the purposes of research or bio-survey and bio-utilization as defined in clauses (m) and (d) of section 2 of the Act, respectively, any citizen of India or a body corporate, association or organization, which is registered in India may before or after accessing/obtaining biological resources or traditional knowledge of such biological resources, occurring within the State of Punjab,*

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http://nbaindia.org/uploaded/pdf/Punjab_Biodiversity_Rules_2016.pdf (Rule 4(1) - Any citizen of India or a body corporate, organization or association registered in India seeking access to/collection of biological resources for commercial utilization with the exception of those in proviso to Section 7 of the Act, shall make an application to the Board in Form-I appended to these rules for prior intimation and approval under clause (b) of Section 23 of the Act)

⁴ <http://nbaindia.org/uploaded/pdf/notification/Sikkim.pdf>

fill in Form-IA accompanied with a cheque or Demand Draft amounting to Rs. 100/- in favour of Punjab Biodiversity Board payable at Chandigarh towards administrative charges.”. As per the said rule, it appears that any non-Section 3(2) entity, or Indian entity or person who intends to access the biological resource from Punjab jurisdiction for the purposes of research or bio-survey and bio-utilization, can voluntarily intimate the SBB. Given the fact that no Applicant would like to get involved in official formalities under such circumstances, the intent behind insertion of this “voluntary” provision seems enigmatic.

A stitch in time – Amendments made by Madhya Pradesh and Karnataka SBB

The amendments made in the biodiversity rules of MP and Karnataka presents an interesting picture. In the State Biodiversity Rules published in the respective Gazette, a provision requiring intimation in case of using biological resources for research was incorporated. Rule 17(1)⁶ of MP State Biological Diversity Rules upon enactment, recited as: *Any person seeking access to/collection of biological resources and associated knowledge for **research** or for commercial utilization shall make an application to the Board in Form-1 appended in these rules. Every application shall be accompanied by a fee of Rs. 100/- in case such access is for research purpose and Rs. 1000/- for commercial utilization and shall be in form of a Cheque or demand draft.* However, as per a recent publication on 4th July 2019 in the Madhya Pradesh Gazette⁷, the aspect related to “research” was omitted from Rule 17(1). Rule 15(1)⁸ of Karnataka State

Biological Diversity Rule upon enactment, recited as: *Any person intending to obtain any biological resources and associated knowledge for **research** or for commercial utilization, with the exception of those in the proviso to section 7 of the Act, shall give prior intimation to the Board by making an application in Form-I.* However, as per a notification dated 10th August 2018⁹, the Amended rule 15(1) recites “*Any person who is a citizen of India or a body corporate, association or organization which is registered in India intending to obtain any biological resources for commercial utilization, or bio-survey and bio-utilization for commercial utilization, with the exception of those in the proviso to section 7 of the Act, shall give prior intimation to the Board by making an application in Form-I*”. By way of the respective amendments, the States have brought clarity which is in consonance with the Act as the un-amended provision was ambiguous with regard to its applicability and also included “research” within its ambit.

Did the Amendments serve the purpose? – A peep into Telangana Biodiversity Rules

However, not all such amendments bring clarity. Rule 16(1)¹⁰ of Telangana Biodiversity Rules, as enacted read as: “*Any person seeking access to/collection of biological resources and associated knowledge for research or for commercial utilization shall make an application to the Board in Form-I appended to these rules. Every application shall be accompanied by a fee of Rs. 1000/- in case such access is for research purpose and Rs. 10,000/- for commercial utilization and shall be in the form of a cheque or*

⁶ <http://mpsbb.nic.in/Acts/a4.pdf>

⁷

<http://mpsbb.nic.in/LatestNews/Amendment%20MPBD%20Rules%202004.pdf>

⁸ <https://www.karnataka.gov.in/kbb/english/BDACT/Karnataka-Biological-Diversity-Rules-2005.pdf>

⁹ [https://www.karnataka.gov.in/kbb/english/BDACT/Karnataka%20Biological%20Diversity%20\(Amendment\)%20Rules,%202018.pdf](https://www.karnataka.gov.in/kbb/english/BDACT/Karnataka%20Biological%20Diversity%20(Amendment)%20Rules,%202018.pdf)

¹⁰ <http://www.tsbiobiodiversity.org/GEF/WEBSITE%20GEF/TSBDB%20Rules,%202015.pdf>

demand draft.” Amendment to the rules was published on 3rd November 2016, amended Rule 16(1)¹⁰ read as: “*Any person seeking access to/collection of biological resources and associated knowledge for research or for commercial utilization shall make an application to the Board in Form-I appended to these rules. Every application shall be accompanied by a fee of Rs. 1000/- for commercial utilization and shall be in the form of a cheque or demand draft and the fees shall be exempted, in case, such access is for research purpose.*”. One can interpret that the amendment has been done for (a) reducing the cost involved in filing an intimation for the purpose of access for commercial utilization (b) making the intimation for the purpose of research free of cost. However, the fact remains that access to biological resources for research does not even require a prior intimation as per the Act, and hence even the amended Rule is ultra vires the Act.

Uttarakhand SBB also has a similar understanding when it comes to intimation for the purpose of research. Rule 14(1)¹¹ of Uttarakhand Biodiversity Rules recites: “*Any citizen of India or a body corporate, organization or association registered in India, intending to undertake any activity referred to Sec. 7 of the Act, in the territory of Uttarakhand, shall give prior intimation to the Board in Form-1*”. Further, Rule 14(2) states: “*Every such application in form-1 shall be accompanied by fees in the form of demand draft from Nationalized Bank as prescribed below for different kinds of commercial utilization of biological resources: (i) for commercial utilization such as trading and manufacturing: Rs. 10,000/-; (ii) for bio-survey/bio-utilization/research etc. meant for commercial utilization: Rs. 5,000/-; (iii) for bio-survey/bio-utilization/research etc. not*

meant for commercial utilization: No fee. Since Rule 14(1) mentions activity referred to in section 7 of the Act, it can be interpreted that the rule does not encompass the requirement for prior intimation for accessing biological resources for purpose of research. However, part (iii) of sub-rule 2 of Rule 14 mentions that no fee is payable for the purpose of research in which no commercial utilization is involved leading to an interpretation that filing an intimation in such a case is still required, although no fee is associated with such an action. The same applies to accessing biological resources for research for commercial utilization for which a fee of Rs 5000 is payable.

Conclusion

Thus, the SBB Rules of some States go beyond the requirement of the Act by requiring prior “approval” for obtaining biological resources for commercial utilization and some others requiring prior intimation for access to biological resources for the purpose of research and bio-survey and bio-utilization. It is important to note that even the guidelines issued by the NBA to SBB for processing Applications¹², clearly states that the applications related to access for biological resources for the purpose of research should not be entertained by the SBBs.

There are also some states like Tamil Nadu, Jharkhand, Rajasthan, Goa, Assam, West Bengal, Orissa, and Chattisgarh in which the relevant rule deals with prior intimation only for commercial utilization and not research. Thus, there is a need for ensuring that the Rules framed by all SBBs are in consonance with the Act.

[The authors are Associate and Executive Director, respectively, in the IPR practice in Lakshmikumaran & Sridharan, New Delhi]

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http://www.sbb.uk.gov.in/files/act/Uttarakhand_State_Biodiversity_Rules_English_2015-Final.pdf

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http://nbaindia.org/uploaded/pdf/Guidelines_for_Processing_ABS_applications_SBBs.pdf



Statute Update

Patent (Amendment) Rules 2019 – Expedient examination and waiver of fees

Department for Promotion of Industry and Internal Trade under the Ministry of Commerce and Industry has on 17th of September 2019 issued Notification No. G.S.R. 663(E) to notify the Patents (Amendment) Rules, 2019 making certain changes in the Patents Rules, 2003.

One of the important amendment is to allow certain categories of patent applicants to seek expedited examination of their patent applications. Amendment in this regard has been made in Rule 24C of the Patent Rules to provide the facility also to a small entity, a female applicant, department of Government, institution established by a Central, Provincial or State Act and owned by Government, Government company, and institution wholly or substantially financed by the Government. Further, such facility would be available to the applicants if they are eligible under an arrangement for processing a patent application pursuant to an agreement between the Indian Patent Office and a foreign Patent Office or the application pertains to a sector which is notified by the Central Government on the basis of a request from the head of a department of the Central Government. Changes in this regard have also been made in the format of Form 18A.

Further, as per the new entries in Schedule I to the Rules, Transmittal fees would not be payable to the Indian Patent Office in respect for international application if the same is done through ePCT filing. Similarly, fees would not be payable for preparation of certified copy of priority document and e-transmission through WIPO DAS.

Geographical Indications to Goods (Registration and Protection) Rules, 2002 proposed to be amended – Draft Rules notified

Department for Promotion of Industry and Internal Trade in the Ministry of Commerce and Industry has issued draft amendments *vide* Notification No. G.S.R. 645(E), dated 12-9-2019 to amend the Geographical Indications to Goods (Registration and Protection) Rules 2002.

As per the proposed amendments, application for registration as authorized user will be required to be made by the proposed authorized user only, instead of being jointly made by the registered proprietor and the proposed authorized user. However, according to the proposals, applicant will be required to forward a copy of the application to the registered proprietor and intimate the Registrar of due service of the same. Consequently, Rule 56(2) presently providing for a consent letter of registered proprietor is proposed to be omitted.

Rule 59(1) is proposed to be amended to provide for omission of the reference to expiry of the appeal period, before which the registrar can enter the authorized user in Part B of the register. As per the amendment, the Registrar can do the needful once opposition is dismissed. He need not wait for the appeal period to be over. Further, clauses (f) and (g) of sub-rule (2) of Rule 59 have been proposed to be deleted. Accordingly, if the amendment is accepted, there will be no need to furnish the priority date accorded to the corresponding convention application and the appropriate office of GI Registry for that application. Form GI 3 is also proposed to be substituted.



Ratio decidendi

Patents – Remedy of post-grant opposition to be availed if pre-grant opposition is rejected

The Delhi High Court has reiterated that in case the pre-grant opposition to a patent gets rejected, the proper remedy is to file a post-grant opposition under Section 25(2) of the Patents Act 1970. Setting aside the petition challenging the Deputy Controller's order that had rejected pre-grant opposition of the petitioner, the Court directed the petitioner to file a post-grant opposition within two months, which if filed, would be decided within a year. The Court observed that Patents Act provides for three distinct remedies to a person challenging grant of a patent - pre-grant opposition, post grant opposition and revocation. Noting that the pre-grant opposition was decided on merits, it held that the remedy would be to either file a post-grant opposition or an application for revocation. It relied on the decision in the case of *UCB Farchim Sa v. Cipla Ltd. & Ors.* where it was held that no appeal or writ is maintainable against the order deciding the pre-grant opposition. [*Mylan Laboratories Ltd v. Uol* – Decision dated 30-9-2019 in W.P.(C) 5571/2019, Delhi High Court]

Copyrights - Defendant paying royalty to plaintiff, accepts rights of latter

The Delhi High Court has restrained the defendants from using the words *Dhagala Lagli* in the to be released film *Dream Girl* as it was infringing plaintiff's copyrights in the literary works of the song *Var Dhagala Lagli Kal* from a Marathi film *Bot Lavin Tithe Gudgulya*. The High Court observed that defendants were not able to show

any right in the song, and that though they were contesting plaintiff's copyrights and validity of agreement, the third defendant was itself paying royalty to the plaintiff, thus accepting plaintiff's rights. Restraining the defendant from exploiting or using the copyrighted works, during the pendency of the suit, the Court also noted that the defendant did not controvert infringement of the subject song in their forthcoming film and had in fact while advertising their film stated "*Relive Dhagala DREAM GIRL style*", thus inciting interest in their forthcoming film as well as in its music, by referring to the subject song in which the plaintiff claims rights. [*Saregama India Ltd. v. Balaji Motions Pictures Ltd.* – Decision dated 13-9-2019 in CS(COMM) 492/2019, Delhi High Court]

Trademark infringement – Presumption of dishonesty of defendant

In a dispute involving plaintiff's mark "Ad Ideas", where the defendant was using the mark "View Ad Ideas", the Calcutta High Court has reiterated that in order to establish infringement of a trade mark, it is not necessary to establish use of identical mark, but it is necessary to consider if the mark is deceptively similar. It noted that that evidence regarding prior user of a trademark even before registration *per se* leads to the conclusion that the plaintiff has *prima facie* made out a case of infringement. The Court was of the view that dishonesty of the respondents is presumed when they have used the distinctive mark similar to the one which is used by the petitioner for a long time and which has been registered with the authority. The Court granted

an ex-parte *ad interim* injunction observing that where it is established that the essential features of plaintiff are copied by the defendant, defendant can only escape liability if he can show that the added matter is sufficient to distinguish his mark. [*Ad Ideas (P) Ltd. v. View Ad Ideas* – Decision dated 18-9-2019 in GA 1878 of 2019 with CS 132 of 2019, Calcutta High Court]

Trademark infringement - Legal Proceedings Certificate to be submitted along with plaint

In a case where the Legal Proceedings Certificate (LPC) was not filed during the entire pendency of the suit but was sought to be filed by the plaintiff only at the final stage of arguments, the Delhi High Court has dismissed the petition challenging the taking on record of the LPC by the Trial Court. Observing that the trademark registration itself was pleaded by the plaintiff, the LPC was permitted to be taken on record, subject to payment of Rs. 50,000 as costs to the defendant. The High Court further laid down general directions for mandatory filing of LPC (or certain documents in the absence of LPC), along with the plaint in the trade mark infringement matters. It also held that usually at the time of admission/denial, parties ought not to be permitted to deny the factum of registration as the same are easily verifiable from online public records. The Registrar General of the Court was

directed to communicate the order to all District Judges specially in Commercial Courts. [*Ambrish Agarwal v. Venus Home Appliances (P) Ltd.* – Decision dated 27-8-2019 in CM (M) 1059/2018, Delhi High Court]

Dishonest adoption of mark - Delay in action cannot defeat injunction

Observing that the plaintiff's trademark 'Suzuki' was well recognized and registered in India since 1972, the Delhi High Court has granted injunction against the defendant using the mark. It held that adoption of the plaintiff's trade mark 'Suzuki' by the defendant in 1982 was not honest and was with *malafide* intention of encashing upon plaintiff's widespread goodwill, name and reputation. It was of the view that if the trade mark having element of prior continuance and use, has been copied, no amount of explanation, even if it is plausible, is capable of defending the infringement. The High Court also held that once the Court comes to the conclusion that it is a fit case of infringement then the delay in bringing the action is immaterial on account of statutory rights under Section 28 of the Trademarks Act. It held that since the adoption of the trademarks was itself dishonest, delay was not sufficient to defeat grant of injunction. [*Suzuki Motor v. Suzuki (India) Ltd.* – Judgement dated 17-7-2019 in CS(COMM) 235/2018, Delhi High Court]



News Nuggets

High Court restrains use of 'Mr. & Miss India' for beauty pageant

The Delhi High Court has granted permanent injunction restraining the defendants from organizing the event/ beauty pageant under the trademark 'MISS INDIA' and/or 'MR. INDIA' or any other trademark which is deceptively similar to the said marks. The Defendants in *Bennett, Coleman and Co. v. Rising India Entertainment Prod.* stated that they were not aware of the plaintiff's trademarks and in future will not use the same or any deceptively similar marks. The plaintiffs trademarks 'MISS INDIA' and 'MR. INDIA' were registered in several classes including Class-38 and 41.

Trademark - Ad interim injunction against 'Super Ultra Rin' for use of 'RIN'

A Single-Judge of the Calcutta High Court has passed an ex-parte *ad interim* injunction against the respondent, after being prima facie satisfied that by respondent's use of word 'RIN' for its product 'SUPER ULTRA RIN' in same class, the trademark of petitioner was infringed. The Court in the case of *HUL v. Avadh Kishor Saha* also observed that the respondent also infringed the copyrights in the artistic works in the packaging of petitioner's product 'Active wheel' containing swirl device and prominent display of lemons on its label. It found that the balance of convenience was in favour of the petitioner.

Trademark 'Fentel' infringes trademark 'Zentel'

Comparing the two competing marks 'Zentel' and 'Fentel', where both were being used in relation to drugs used for de-worming, the Delhi High Court has held that there were overwhelming visual, structural and phonetic similarities between the two marks. Granting permanent injunction against the defendant, it held that the difference in the first consonant of the two marks was not sufficient to bring out the distinction between the two marks. The Court in the case of *Glaxo Smithkline Pharmaceuticals Ltd. v. Naval Kishore Goyal* noted that plaintiff had obtained restraint orders against products sold under the names *Antel, Zantrol, Zeetel, Letnez* and *Entel*. It held that by virtue of long standing use, vast publicity and promotion, it can be concluded that the mark 'Zentel' had earned substantial goodwill and reputation and was exclusively associated with the plaintiff. Rejecting the plea that the mark 'Fentel' was based on the name of the company, the drug used therein and the nature of disease, the Court held that the explanation was downright imaginative and far-fetched.

Design suit – Supreme Court upholds imposition of costs

The Supreme Court has by its Order dated 23-9-2019 disposed off the Special Leave Petition No. 22395-22403/2019 filed by Crocs Inc, USA challenging the imposition of costs on it

by the Delhi High Court. The Apex Court in the case *Crocs Inc, USA v. Liberty Shoes Ltd.* held that, “*The direction of payment of costs would be subject to the result of the suit subject to the petitioner paying the costs to the respondent within a period of four weeks from today.*”

Rejecting the request of the petitioner for grant of injunction, the Single Judge of the Delhi

High Court had earlier imposed costs which were directed to be paid within a period of four weeks. The said Order relating to the payment of costs was later affirmed by the Division Bench in the judgment impugned before the Supreme Court. The petitioner submitted before the Supreme Court that the costs should be made subject to result of the final decision.

NEW DELHI

5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014
Phone : +91-11-4129 9811

B-6/10, Safdarjung Enclave
New Delhi -110 029
Phone : +91-11-4129 9900
E-mail : lsdel@lakshmisri.com

MUMBAI

2nd floor, B&C Wing,
Cnergy IT Park, Appa Saheb Marathe Marg,
(Near Century Bazar)Prabhadevi,
Mumbai - 400025
Phone : +91-22-24392500
E-mail : lsbom@lakshmisri.com

CHENNAI

2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU

4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West, Bangalore-560 055.
Ph: +91(80) 49331800
Fax:+91(80) 49331899
E-mail : lsblr@lakshmisri.com

HYDERABAD

'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church,
Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD

B-334, SAKAR-VII,
Nehru Bridge Corner, Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE

607-609, Nucleus, 1 Church Road,
Camp, Pune-411 001.
Phone : +91-20-6680 1900
E-mail : ls pune@lakshmisri.com

KOLKATA

2nd Floor, Kanak Building
41, Chowringhee Road,
Kolkatta-700071
Phone : +91-33-4005 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH

1st Floor, SCO No. 59,
Sector 26,
Chandigarh -160026
Phone : +91-172-4921700
E-mail : lschd@lakshmisri.com

GURGAON

OS2 & OS3, 5th floor,
Corporate Office Tower,
Ambience Island,
Sector 25-A,
Gurgaon-122001
phone: +91-0124 - 477 1300
Email: lsurgaon@lakshmisri.com

ALLAHABAD

3/1A/3, (opposite Auto Sales),
Colvin Road, (Lohia Marg),
Allahabad -211001 (U.R)
phone . +91-0532 - 2421037, 2420359
Email:lsallahabad@lakshmisri.com

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