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Article

Balancing innovation and ethics: Calcutta High Court's guidance on Section 3(b)

By **Dr. Malathi Lakshmikumaran and Aashmeen Kaur**

The article in this issue of IPR Amicus examines two recent judgments of the Calcutta High Court in appeals, challenging the rejection of patent applications on grounds of non-patentability under Section 3(b). Section 3(b) bars the patenting of 'an invention the primary or intended use or commercial exploitation of which could be contrary to public order or morality, or which causes serious prejudice to human, animal or plant life or health or to the environment'. The authors explore the High Court's interpretation of Section 3(b), offering critical insight into its evolving application within India's patent regime. They note that the Court has held that patentability must be assessed based on the invention's intended use, not speculative harm, and reaffirmed that patent rights are exclusionary—not affirmative rights to commercialize. According to them, these decisions mark a significant step towards balancing innovation incentives with public interest safeguards in India's evolving patent landscape.

Balancing innovation and ethics: Calcutta High Court's guidance on Section 3(b)

Introduction

In recent years, the Indian Patent Office has adopted a stricter interpretation of Section 3(b) of the Patents Act, 1970, leading to increased rejections of patent applications. This article examines two recent judgments of the Hon'ble Calcutta High Court in appeals filed by ITC Limited under Section 117A, challenging the rejection of patent applications 685/KOL/2015 and 201731039343 on grounds of non-patentability under Section 3(b). Section 3(b) bars the patenting of '*an invention the primary or intended use or commercial exploitation of which could be contrary to public order or morality or which causes serious prejudice to human, animal or plant life or health or to the environment*'.

For refusing, in both cases, the Respondents relied on newly introduced documents for the first time in the impugned orders. The Court addressed two key issues: (i) whether these documents were properly served upon the Appellant and whether the appellant was given an opportunity to deal with

By Dr. Malathi Lakshmikumaran and Aashmeen Kaur

the documents relied upon by the respondent, and (ii) whether the inventions fell within the scope of Section 3(b).

The Court held that the failure to serve the documents violated principles of natural justice and found the Respondents' interpretation of Section 3(b) legally flawed. Accordingly, the impugned orders were set aside, and the matters were remanded for reconsideration. This article explores the High Court's interpretation of Section 3(b), offering critical insight into its evolving application within India's patent regime.

Appeal 1¹: Application No. 685/KOL/2015

Title: *A Device and Method for Generating and Delivery of a Nicotine Aerosol to a User*

Following the First Examination Report (FER), the Respondent raised objections under Section 3(b), later expanded to all claims in the hearing notice, citing a new document not previously disclosed. Following a hearing and written submissions, the application was refused as the

¹ ITC Limited v. The Controller of Patents, decided on 30 April 2025

invention being unpatentable under section 3(b) for causing serious prejudice to human health, prompting an appeal under Section 117A.

High Court's findings

The Court held that the statutory materials cited in the impugned order were not served on the Appellant, thereby denying the Appellant a fair opportunity to respond ^{para 29 of 1}.

In interpreting Section 3(b), the Court emphasized that *the provision must be assessed based on the intent of the invention, not speculative effects*. Referring to the Patent Office's Manual of Practice and Procedure², it observed that *tobacco or nicotine-related inventions are not explicitly excluded under Section 3(b)*. The Court also cited Article 27.2 of the TRIPS Agreement and Article 4quater of the Paris Convention, affirming that *patentability cannot be denied solely due to domestic restrictions on commercial exploitation* ^{paras 37-38 of 1}.

Finally, while assessing Sections 83(d) and (e) of the Patents Act, as relied upon by the Respondent, the Court reiterated that *patents are intended to promote innovation and commercial application within India, while public health safeguards fall within the remit of the Central Government, independent of the patent grant*

process ^{para 39 of 1}. The Court found that patent grants did not in any way prohibit Central Government from taking measures to protect public health.

Appeal 2³: Application No. 201731039343

Title: *A Heater Assembly to Generate Aerosol*

The Appellant's application was refused under Section 3(b) following the FER, hearing, and written submissions. Subsequently, an appeal was filed under Section 117A challenging the rejection.

High Court's findings

The Court underscored that the fundamental objective of the Patents Act, 1970 is to promote scientific innovation and technological advancement in the public interest. This is achieved by granting inventors exclusive rights for a limited period, after which the invention enters the public domain. The Court emphasized the critical role of the Patent Office in administering this framework, noting that its decisions must be reasoned and aligned with the legislative intent of the Act ^{para 7 of 3}.

² Manual of Patent Office, Practice and Procedure, 2019.

³ *ITC Limited v. The Controller of Patents*, decided on 20 May 2025.

In its interpretation of Section 3(b), the Court adopted a structured two-step approach:

1. ***Determination of the invention's utility***: The Court reiterated that Section 3(b) requires an assessment of the “primary or intended use or commercial exploitation” of the invention. It found that the Respondent had erroneously presumed that the invention would be used exclusively with tobacco-based substrates, thereby prejudicing human health. However, the invention was not inherently limited to such use. This mischaracterization led to an incorrect conclusion regarding its patentability^{para 8 of 3}.
2. ***Assessment of whether the utility contravenes public order or morality***: Once the utility is established, the next step is to determine whether it is contrary to public order, morality, or causes serious harm to life, health, or the environment. The Court noted that while Section 3(b) uses the term “public order,” its interpretation may be guided by international instruments such as Article 53(a) of the European Patent Convention and the TRIPS Agreement, which refer to the concept of “*ordre public*”. The legislative intent, as reflected in jurisprudence and guidelines

(e.g., Terrell on the Law of Patents, 19th Ed., para 2-130), *is to exclude inventions likely to incite disorder, criminality, or broadly offensive conduct*^{para 9 of 3}.

In support of its reasoning, the Court relied on several judicial precedents and statutory provisions:

1. ***Negative nature of patent rights***: Citing *Hindustan Lever Ltd. v. Lalit Wadhwa & Anr.*, 2007 SCC OnLine Del 1077, the Court reaffirmed that a patent confers only a negative right—the right to exclude others—not an affirmative right to use or commercialize the invention. The patentee’s ability to exploit the invention may still be subject to other legal or regulatory constraints^{para 10 of 3}.
2. ***Lack of evidentiary basis***: The Court found that the Respondent’s conclusion—that the invention caused serious harm to human health—was unsupported by cogent reasoning or evidence. It emphasized that tobacco-related inventions are not inherently unpatentable in India and that the impugned order failed to establish a rational nexus between the facts and the conclusion, as required under *Uniworth Resorts Ltd. v. Ashok Mittal & Ors.*, (2008) 1 Cal LT^{para 11 of 3}.

3. **Misapplication of the ‘affect’ principle:** The Court criticized the Respondent’s reliance on presumed harm (*the affect principle*) without scientific or technical substantiation, while disregarding the *intent principle*—the purpose behind the invention. This approach was inconsistent with international jurisprudence, including *HARVARD/Onco-mouse* (T19/90), *PLANT GENETIC SYSTEMS* (T356/93), and *Harvard/Transgenic Animals* (T 315/03) ^{para 11 of 3}.
4. **Improper reliance on uncited statutes:** The Court noted that the *Prohibition of Electronic Cigarettes Act, 2019*, which regulates manufacture and sale, was not cited in the impugned order. Nonetheless, the Respondent relied on it during the appeal. The Court held that administrative orders cannot be defended on grounds not stated in the order itself (*ITC Ltd. v. Controller of Patents*, IPDPTA No. 121 of 2023) ^{para 12 of 3}.
5. **Misconception regarding patent rights and ethical considerations:** Addressing a fundamental error in the impugned order, the Court clarified that the grant of a patent does not imply a right to commercialize

the invention. Citing *R.J. Reynolds Tobacco Co. v. Controller of Patents*, IPDPTA 31 of 2023, it reiterated that patent rights are exclusionary and do not confer a right to use, sell, or manufacture the invention ^{para 13 of (2)}. In *R.J. Reynolds*, the Court emphasized the need to balance ethical considerations in interpreting Section 3(b), referencing Article 53(a) of the EPC and the 161st Report of the Parliamentary Standing Committee on Commerce. The Committee had cautioned against the broad and unguided application of Section 3(b), warning that it could lead to the denial of socially beneficial inventions, such as nicotine de-addiction aids ^{para 13 of 3}.

6. **Misplaced constitutional reliance:** Finally, the Court found the Controller’s reliance on Article 47 of the Constitution misplaced. It held that Directive Principles of State Policy and Article 14 are not determinative in assessing patentability. The misinterpretation of Section 83(e)—assuming that patent grant equates to commercialization—further reflected a flawed understanding of both the invention and the statutory framework ^{para 17 of 3}.

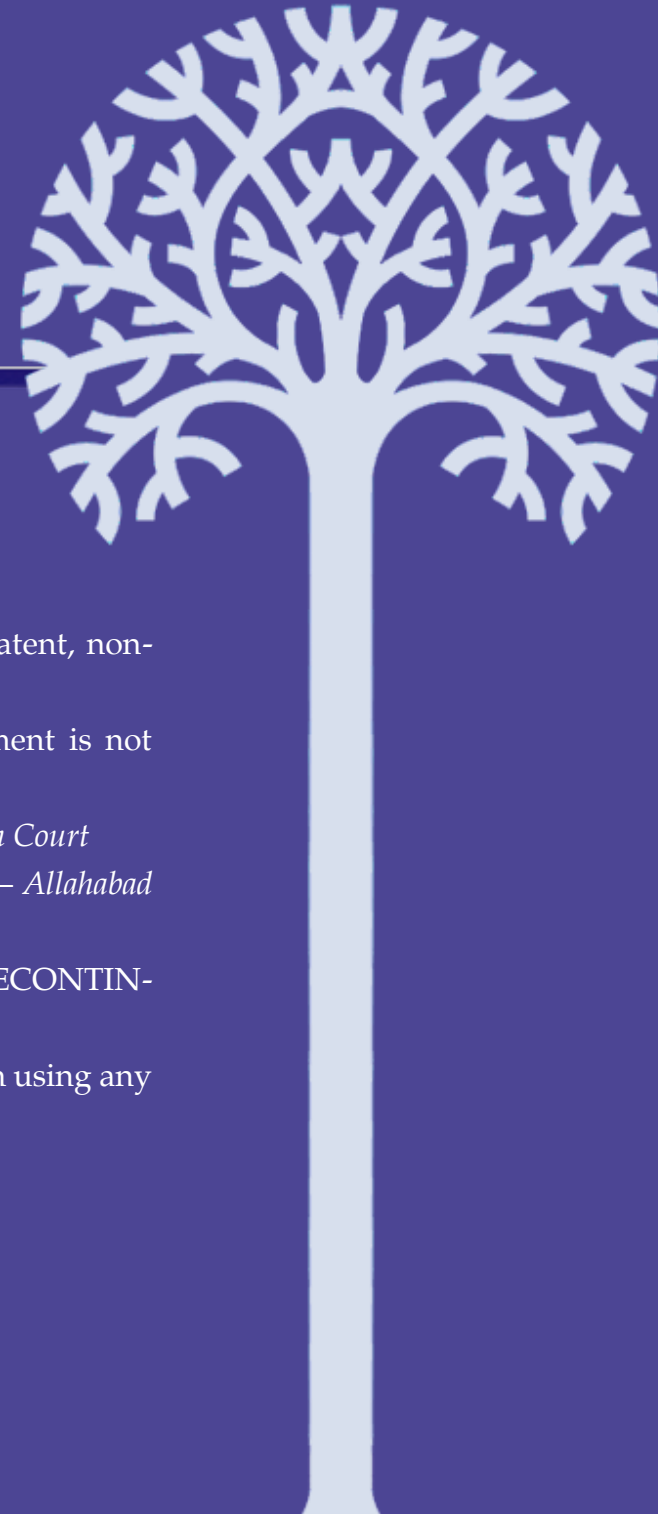
Conclusion

The Calcutta High Court's rulings in both appeals underscore the importance of procedural fairness, evidentiary rigor, and statutory interpretation in patent adjudication under Section 3(b) of the Patents Act, 1970. The Court clarified that patentability must be assessed based on the invention's intended use, not speculative harm, and reaffirmed that patent rights are exclusionary—not affirmative rights to commercialize. It also cautioned against relying on constitutional provisions and unrelated statutes to justify patent refusals, emphasizing that patent grants may not be refused merely for reasons that the domestic law imposes

prohibition on commercialization of the patented product. By remanding both matters for fresh consideration, the Court reinforced the need for reasoned, evidence-based decision-making and provided valuable judicial guidance on the interpretation of Section 3(b), particularly in the context of tobacco and nicotine-related inventions. These decisions mark a significant step towards balancing innovation incentives with public interest safeguards in India's evolving patent landscape.

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Ratio Decidendi



- Patent infringement – Denial of interim injunction for absence of essential elements of suit patent, non-working of the patent and delay in filing the suit – *Delhi High Court*
- Trademark disparagement – Use of word 'Sadharan' (ordinary) in the offending advertisement is not always fatal – *Calcutta High Court*
- Trademark – No stay of suit under Section 124, if the suit is not of infringement – *Allahabad High Court*
- Trademark – Infringement or injunction – Nature of suit must be ascertained from the prayer – *Allahabad High Court*
- Trademark 'FEMICONTIN' is phonetically, structurally and visually practically identical to 'FECONTIN-F' – *Delhi High Court*
- Concept of 'family of marks' cannot be extended to grant injunction against any third party from using any mark where the registered mark is a part – *Delhi High Court*

Patent infringement – Denial of interim injunction for absence of essential elements of suit patent, non-working of the patent and delay in filing the suit

The Delhi High Court has dismissed the application for the grant of an interim injunction, finding absence of *prima facie* case of infringement of the suit patent titled '*A Communication Device Finder System*' by the defendant in using its '*Find Device*' feature in its products (mobile devices, tablets, etc.) The Court in this regard also noted that the balance of convenience was also in favour of the defendant as their products were being sold in India since 2014.

Considering the complete specification of the suit patent along with the claims, including the characteristic features of the suit patent and the defendant's product, the Court noted that '*Find Device*' feature in the defendant's devices becomes inoperable if an unauthorised person resets the device to its factory settings, while the '*security activation element*' in the suit patent cannot be deleted or deactivated and the communication with the communication device cannot be lost. The Court in this regard also noted that once a password of the defendant's device is compromised, any unauthorised person can perform the factory reset. It was also observed that features like '*auto answer mode*'

and the flash memory for reinstalling the data related to the '*security activation element*', were the essential elements of the suit patent (as they addressed the problems identified in the prior arts) and were absent in the defendant's devices.

Further, observing that the intent of the defendant's '*Find Device*' feature was not to monitor the device, as claimed in the suit patent, but to protect the data from falling in wrong hands, the Court was also of the view that there was a functional difference between the '*Find Device*' feature of the defendant's device and the communication device finder system covered in the suit patent. Observing that the plaintiffs failed to establish a *prima facie* case of infringement of the independent claim, the Court was also of the view that there cannot be any infringement of the dependent claims.

On non-working of the suit patent, the Court perused Forms-27 filed by the plaintiffs before the Patent Office, according to which the invention (subject matter of the suit patent) was worked in India only to a limited extent. Relying upon Division Bench judgement in *Franz Xaver Huemer v. New Yash Engineers*, the Court held that the fact that the suit patent has hardly been worked in India would also be one of the factors for refusing the grant of an interim injunction in favour of the plaintiffs.

Lastly, on the delay in filing the suit, the Court noted that the suit patent was granted on 28 December 2010, and that the defendant was selling its devices with the impugned 'Find Device' feature in India since 2014. The High Court also noted that in Form 27 filed before the Patent Office in April 2015, the plaintiff had acknowledged its awareness of several global smartphone manufacturers allegedly infringing the suit patent. The Court hence did not accept the submission of the plaintiffs that they became aware of infringing devices only in January 2023.

The defendant was represented by Lakshmikumaran & Sridharan Attorneys here. [Conqueror Innovations Private Limited & Anr. v. Xiaomi Technology India Private Limited – Judgement dated 4 July 2025 in CS(COMM) 361/2023 and CC(COMM) 21/2023, Delhi High Court]

Trademark disparagement – Use of word 'Sadharan' (ordinary) in the offending advertisement is not always fatal

The Calcutta High Court has dismissed the allegation of trademark disparagement by using the word 'Sadharan' (meaning 'Ordinary') in the offending advertisement, for the products of others, by the defendant here. The Court in this

regard distinguished number of decisions of the Court where the use of the same word was held as disparaging.

According to the Court, the word 'Sadharan' was utilized in its generic sense and is not to be equated with 'inferior' so as to debase the product of the appellant. The Court in this regard noted that the earlier bottle shown in the advertisement was not degraded or thrown away or dealt with in a derogatory manner. It observed that in the advertisement, the protagonist using the earlier bottle was merely convinced by the popular actor to use the product of the respondent instead of the earlier product, the latter being labelled as 'ordinary' as compared to the respondent's product, which was projected as extra-ordinary as compared to other products.

Further, the Court also noted that there was no mentioning of the name of the appellant's product in the advertisement, and the bottle shown was completely different in shape, size and colour from that of the appellant's product. It was also noted that the use of the word 'Sadharan' was not coupled with any such aspersion against the product of the appellant or, for that matter, any other product.

Finally, the Court failed to connect the use of the word 'Sadharan' with the product of the appellant. Observing that the freedom of commercial speech of the respondent and its fundamental right

to do business cannot be throttled on a vague perception of disparagement, the Court was of the view that disparagement was completely illusory in the present case. According to the Court, the appellant was being hypersensitive here.

[*Emami Limited v. Dabur India Limited* – Judgement dated 2 July 2025 in A.P.O.T. No.53 of 2025 arising out of IP-COM No.18 of 2024, Calcutta High Court]

- 1) **Trademark – No stay of suit under Section 124, if the suit is not of infringement**
- 2) **Trademark – Infringement or injunction – Nature of suit must be ascertained from the prayer**

Observing that both the prayer in the suit and the counter claim was only for permanent injunction as well as prohibitory injunction, the Allahabad High Court has held that Section 124 of the Trade Marks Act, 1999 would not be applicable to stay the suit proceedings. Section 124 allows stay of the infringement suit in case the validity of the trademark is challenged.

The Court rejected the submission, relying upon Order VII Rule 7 of CPC, that nature of suit must be seen from the plaint and not from the prayer. It noted that the Order does not ask to go

through the pleadings for ascertaining the nature of suit. It was also noted that there was no prayer questioning the validity of registration of the trademark and at the time of filing of the suit, no rectification proceeding was pending.

Further, the High Court noted that no issues were framed for the purpose of Section 124 by the Commercial Court. The Court in this regard observed that issues were framed only under Order 14 Rule 1 of CPC, and that issues framed under Section 124 and under Order 14 Rule 1 of CPC are entirely different, having different meanings. Accordingly, the Court was of the view that even in case the suit is treated to be a suit for infringement of trademark, issues having been not framed as required under Section 124(1)(b)(II), the order for stay of proceeding is bad on this ground and liable to be set aside.

Setting aside the stay, the Court also noted that the rectification applications were filed before the Registrar and not before the High Court, and that the same were not referred to the High Court as prescribed under Section 125(2).

[*Sterling Irrigations v. Bharat Industries* – Judgement dated 1 July 2025 in Matters under Article 227 No. 8521 of 2024, Allahabad High Court]

- 1) Trademark 'FEMICONTIN' is phonetically, structurally and visually practically identical to 'FECONTIN-F'
- 2) Concept of 'family of marks' cannot be extended to grant injunction against any third party from using any mark where the registered mark is a part

The Division Bench of the Delhi High Court has held that FEMICONTIN mark of the respondents infringes the FECONTIN-F mark of the plaintiff-appellant and also amounts to passing off, by the respondents, of their product as the product of the appellant. The Court noted that the marks FEMICONTIN and FECONTIN cannot be regarded as descriptive of the drug in respect of which they were used. Setting aside the Single Bench decision, the DB was thus of the opinion that appellant's prayer for injunction against the use of the FEMICONTIN mark could not have been rejected on the ground that FECONTIN-F mark was descriptive in nature. *The Single Bench decision was covered in April 2023 issue of LKS IPR Amicus, as available [here](#).*

Further, on merits, the Court noted that mark FEMICONTIN was practically identical to the mark FECONTIN-F. According to the Court, the intervening 'MI' does not result in any distinction between the two marks that would mitigate the possibility of confusion, not only in the mind of the consumer of an average intelligence and imperfect recollection, but even in the mind of a doctor. The Court also noted that the marks were deceptively similar and that the respondent had also adopted the trade dress which would augment the possibility of confusion.

It may however be noted that the Court, however, rejected the appellant's prayer for a restraint against the use of registered trademark CONTIN of the appellant as a suffix, a prefix or any part of the mark by any third party. Perusing the 'family of marks' concept, the Court observed that the use of any other mark by a third party, with the same suffix, for pharmaceutical preparation, could, therefore, lead to confusion or a presumption of association within the meaning of Section 29(2) of the Trade Marks Act, however, the concept cannot extend to grant an injunction, from using any mark of which CONTIN is a part, for pharmaceutical preparations or otherwise. Thus, according to the Court, while it is possible for the Court to invoke the family of marks principle to grant injunction, that

injunction has to be against marks which are specifically under challenge before the Court.

[*Modi-Mundipharma Pvt. Limited v. Speciality Meditech Pvt. Ltd. & Anr.* – Judgement dated 1 July 2025 in RFA(OS)(COMM) 8/2023, Delhi High Court]



News Nuggets

- Company can file criminal case against counterfeit product sellers' acquittal: SC
- Copyrights – Online payment of licence fee for literary work, musical work, and sound recording proposed
- Non-filing of trademark opposition due to a technical glitch – Madras HC dismisses plea of cancellation of mark
- Patent's non grant set aside when none of the prior arts combined all three ingredients though two ingredients noted therein
- E-infringement of trademark – Delhi HC DB grants complete stay of decision awarding huge damages and costs against an e-commerce giant
- Trademarks infringement and passing off – Jurisdiction of High Court – Listing on e-commerce website is not decisive
- Trademark opposition – Non-filing of evidence under Rule 45 when fatal
- Trademark registration when in 'bad faith' – Purpose of adoption plays an important role
- Copyrights – Training AI models with books purchased and digitized, is 'fair use': US Court
- Rajasthan's traditional dish Ker Sangri awarded GI tag

Company can file criminal case against counterfeit product sellers' acquittal: SC

The Supreme Court of India has held that an aggrieved company is entitled to pursue criminal case under the Criminal Procedure Code against accused in cases relating to sale of counterfeit products, and thus file appeal against acquittal or for enhancement of sentence. The Apex Court for this purpose, in *Asian Paints Ltd. v. Ram Babu and Another* [Judgement dated 14 July 2025] held that the term 'victim' used in CrPC includes in its definition a company. The question of law raised in the dispute was whether the appellant-company would fall under the definition of 'victim' in terms of Section 2(wa) read with the proviso to Section 372 of the CrPC or whether Section 378 of the CrPC would prevail in the facts and circumstances of the case. The Rajasthan High Court had in its order impugned before the Supreme Court held that the company-appellant cannot be a 'victim' as it is only the complainant who can maintain such appeal, after seeking leave of the High Court.

Copyrights – Online payment of licence fee for literary work, musical work, and sound recording proposed

The Department of Promotion of Industry and Internal Trade in the Ministry of Commerce and Industry has released draft

Copyright (Amendment) Rules, 2025 to amend the Copyright Rules, 2013. The new Rule 83(A) mandates the owner or licensor of a literary work, musical work, and sound recording to establish and maintain an online payment mechanism for collection of license fee payable by a licensee for communication of such work to the public. It may be noted that Rule also emphasizes that all payments of such license fee need to be processed exclusively through said online system, and no alternative method of payment will be permitted or accepted for this purpose.

Non-filing of trademark opposition due to a technical glitch – Madras HC dismisses plea of cancellation of mark

In a case where the opposition to the registration of the trademark could not be lodged due to some technical glitch and the mark got registered, the Madras High Court has dismissed the petition filed by the 'opponent' while leaving it free for him to file a rectification petition in accordance with law. The petitioner (unsuccessful opponent) had contended that it should not be deprived of the statutory right to oppose the registration of the trademark on account of a technical glitch in the system of the Registrar of Trademarks. The petitioner had thus also sought cancellation of the registration mark. The High Court in *LMES Academy Private Limited v. Controller* [Order dated 26 June 2026],

however, observed that even if there was a technical glitch, the mark has already been registered and the petitioner has a remedy under Section 57 of the Trade Marks Act, 1999.

Patent's non grant set aside when none of the prior arts combined all three ingredients though two ingredients noted therein

The Madras High Court has set aside the rejection of grant of patent in a case where individually, none of the cited prior arts combined a cephalosporin, such as ceftazidime, with an oxazolidinone, such as linezolid, and tazobactam. Remanding the matter for reconsideration, the Court noted that two of these ingredients were seen in cited prior arts, but not all three. Also, noting the absence of discussion or reasoning as to how and why combining the three ingredients would be obvious to PSITA, the Court in *Srinivas Jegannathan v. Controller* [Judgement dated 1 July 2025] was of the view that interference is warranted.

E-infringement of trademark – Delhi HC DB grants complete stay of decision awarding huge damages and costs against an e-commerce giant

The Division Bench of the Delhi High Court has granted a complete stay of operation of the judgment and money decree passed by the Single Judge, insofar as it awards damages against

Amazon Tech and in favour of Lifestyle. The Single Bench had imposed damages totaling to USD 38.77 million (INR 336,02,87,000) on Amazon Tech. A decree of costs to the tune of INR 3,23,10,966.60 along with the Court Fee was also passed. *The impugned decision by the Single Bench was reported in March 2025 issue of LKS IPR Amicus, as available [here](#).*

The DB in this regard noted that the entire trial took place in the absence of Amazon Tech, Lifestyle's evidence was also led in Amazon Tech's absence and was never subjected, therefore, to cross-examination, and no arguments of Amazon Tech were heard. The Court also noted that the plaintiff (Lifestyle) alone participated in the entire proceedings, whose evidence was led, and whose arguments were heard. According to the Court, the proceedings were therefore one-sided throughout. The DB was also of the view that the present appeal deserves to be heard without requiring Amazon Tech (Appellant) to secure any part of the decretal amount, as there was no finding of any role of the e-commerce giant in the alleged infringement. The Court in *Amazon Technologies INC v. Lifestyle Equities CV & Anr.* [Judgement dated 1 July 2025] noted that Amazon Tech had at no point claimed to be an intermediary and that the Licensing Agreement between Amazon and Cloudtail made no reference to the infringing mark at all.

Trademarks infringement and passing off – Jurisdiction of High Court – Listing on e-commerce website is not decisive

The Delhi High Court has held that the judgments in *Marico Limited v. Mukesh Kumar* [2018 SCC OnLine Del 13412] and *Shakti Fashion v. Burberry Limited* [2022 SCC OnLine Del 1636] do not hold that the jurisdiction can be made out only on the basis of listing of the impugned products on e-commerce portal of India Mart and the like. According to the Court, the jurisdiction has to be made out in each case on the basis of facts and circumstances obtaining in the said case. Similarly, the High Court also rejected the contention that the Delhi High Court had jurisdiction on the basis of the Marketing Agreement executed in Delhi. The Court in *Kohinoor Seed Fields India Pvt Ltd. v. Veda Seed Sciences Pvt. Ltd.* [Judgement dated 16 April 2025] was of the view that the jurisdiction would have to be determined only on the basis of averments in the plaint regarding trademark infringement and passing off.

Trademark opposition – Non-filing of evidence under Rule 45 when fatal

The Delhi High Court has set aside the Controllers Order wherein the Controller had allowed the Opposition proceedings

on the basis of ‘alleged’ user claimed by the opponent-respondent, while ignoring that of the appellant. The opponent had not filed evidence under Rule 45 of the Trade Mark Rules. The Court in *Avient Switzerland GMBH v. Treadfast Ventures & Anr.* [Judgement dated 1 July 2025] was of the view that if the impugned order is allowed to subsist it will render the provisions *qua* filing of evidence in the Opposition proceedings *otiose* as they will depend on what is filed on record. Observing that filing of Notice of Opposition itself cannot be/ is not a ‘sufficient ground’ for the Examiner for proceeding with allowing any Opposition proceedings, the Court also noted that the appellant was not a fly-by-night operator and was having worldwide registrations with continuous and uninterrupted usage of the trademark. The Court here also noted that the appellant had filed Invoice issued by the subsidiary of the appellant’s predecessor-in-interest, evidencing sale of goods under the impugned trademark. grievance

Trademark registration when in ‘bad faith’ – Purpose of adoption plays an important role

The Delhi High Court has observed that the ‘purpose’ of adoption of a trademark plays a very important role, and for this, a purposive interpretation has to be given. According to the Court, if the ‘purpose’ of adoption of a trademark is found to be

in doubt, it can be inferred that the registration of the trademark is tainted in 'bad faith' and the same may be taken off the Register of Trademarks. The Court in *Major League Baseball Properties INC. v. Manish Vijay & Ors.* [Judgement dated 1 July 2025] also noted that that 'bad faith' constitutes an 'unfair practice' involving lack of honest intention.

Copyrights – Training AI models with books purchased and digitized, is 'fair use': US Court

The U.S. District Court for the Northern District of California has held that creation of a digital library by purchasing & digitizing print books and thereafter using these copyrighted works for training Large Language Models ('LLMs') are covered under 'fair use' under the US Copyright law. The District Court was of the view that the use of the books at issue to train the AI model was 'exceedingly transformative' and was 'fair use' under Section 107 of the Copyright Act. It was also held that the digitization of the books purchased in print form was also a fair use, because the respondent only replaced the print copies it had purchased for its central library with more convenient space-saving and searchable digital copies — without adding new copies, creating new works, or redistributing existing copies.

It may be noted that the Court in *Andrea Bartz and Others v. Anthropic PBC* [Decision dated 23 June 2025], however, was of the view that the respondent was no entitlement to use pirated (illegally downloaded) copies for its central library. It was held that creating a permanent, general-purpose library was not itself a fair use.

Rajasthan's traditional dish Ker Sangri awarded GI tag

Rajasthan's traditional dish Ker Sangri has been awarded the Geographical Indication (GI) tag. Ker Sangri is made using two desert plants. The Ker is a small berry, while Sangri is a bean that grows on the Khejri tree. These ingredients grow naturally in the dry and sandy lands of the Thar Desert. Also, according to a news report by Hindustan Times, as available [here](#), Darjeeling tea was the first product in India to get a GI tag in 2004. Alphonso mangoes from Maharashtra were awarded the GI tag in 2018 while Bikaneri Bhujia, a crispy and spicy snack from Bikaner, Rajasthan, received its GI tag in 2008. Other notable GI-tagged foods include Kashmiri saffron, prized for its deep colour and strong aroma, which was granted the GI tag in 2020. Manipuri black rice, known for its rich nutrients and beautiful purple colour, earned its GI status in 2020.

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