



**Chambers of Jain  
and Kumar**

**Advocates and consultants**

## **Intellectual Property Rights- Newsletter (June 1-June 15, 2020)**

### **TRADEMARK**

The Hon'ble Delhi High Court in a case<sup>1</sup> restrained a company from using the mark **'DEVTOL'** for hand sanitizers as the same was found to be infringing well known and registered mark and logo **'DETTOL'** owned by Reckitt Benckiser. The infringing company submitted that they had already instructed their dealers to withdraw infringing products from the market, and had confirmed that they would no longer manufacture or sell the infringing product.

The Hon'ble Delhi High Court in another case<sup>2</sup> restrained a company from issuing illegal bar codes starting with number **'890'** through its web portal as they were found to be infringing GSI India's certification mark **'890'** by issuing barcodes beginning with identical numbers. GSI India submitted that it was the only authorized issuer of barcodes beginning with **'890'** in India, which were compliant with the standard set by GS1 (global body to maintain global standards as also database of the barcodes). The Court observed that restraining such a company from issuing illegal bar codes is essential as it has caused irreparable loss to customers who were being cheated through the issuance of fake barcodes.

The Hon'ble Delhi High Court recently<sup>3</sup> restrained a pharmaceutical company from dealing in the mark **'LULIBET'** as the same was found to be phonetically, visually and structurally similar to that of mark **'LABEBET'** of Sun Pharma Laboratories Ltd. Both marks were in respect of medical preparations. Court observed that usage of **'LULIBET'** was causing

confusion to general public and being medicinal products, a strict test must be applied as it has adverse consequences on life and health of public in general.

### **COPYRIGHT**

The Hon'ble Bombay High Court recently<sup>4</sup> dismissed a copyright infringement case against the Netflix series **'Betaal'** holding that the Plaintiff Mr. Sameer Wadekar failed to provide a conclusive link between the copyright held by him in literary work **'Vetaal'** and the Netflix series. The Court also observed that Plaintiff Mr. Wadekar had delayed in filing the case and **'Betaal'** is a common Hindu mythology story, hence there is no reason for favoring Plaintiff Mr. Wadekar.

The Hon'ble Bombay High Court in a case<sup>5</sup> temporarily restrained the makers of web series **'Singardaan'** from making further adaptations or using their web series **'Singardaan'** as it was found infringing the Copyright in Plaintiff Shamoil Ahmed Khan's work, who is an author of a short story having the same title. The Court observed that in the case of literary artworks, copyright extends not only to the expression of the core idea but also to its theme, plot and storyline.

### **PATENTS**

According to a recent Nasscom report, about 6,000 Internet of Things (**IoT**) patents were filed in India from 2009-2019, of which over 5,000 were filed in the last five years. According to a report titled 'IoT: Driving the Patent Growth Story in India', 40 per cent of the total IoT patents filed have been granted. Over 80 percent of these patents filed were related to

<sup>1</sup> CS (Comm) No. 141/2020 titled as Reckitt Benckiser (India) Pvt. Ltd. v. Mohit Petrochemicals Pvt. Ltd. on 29.05.2020

<sup>2</sup> CS (Comm) No. 147/2020 titled as GS1 India v. Barcodes SL & Ors. on 29.05.2020

<sup>3</sup> CS (Comm) No. 757/2017 titled as Sun Pharma Laboratories Ltd. v. BDR Pharmaceuticals Int'l Pvt. Ltd. & Anr on 05.06.2020

<sup>4</sup> LD-VC-70 OF 2020 titled as Sameer Wadekar v. Netflix Entertainment Services Pvt. Ltd. on 22.05.2020

<sup>5</sup> Commercial IP Suit No. 1193 OF 2019 titled as Shamoil Ahmad Khan v. Falguni Shah on 26.05.2020

applications pertaining to Industry 4.0 or Industrial Revolution 4.0 with the healthcare and automobile industry leading the way. 70 percent of the patents came from multinational corporations (**MNCs**) and 7 percent were filed by startups. IoT innovation will help countries rebound in the post-COVID era, with an increased focus on healthcare and hygiene. Healthcare will be modernised with telehealth and remote patient monitoring, through devices such as connected thermometers, advanced data collection and processing and smart wearables.

Patent filing is also expected to see an increase in the coming years primarily driven by healthcare, automation, manufacturing and supply chain, 5G and security systems.

## DESIGNS

Japan's largest two-wheeler manufacturer Honda Motor Company (**Honda**) has filed a claim against India's biggest electric two-wheeler maker Hero Electric for alleged design infringement. Honda has sought an interim order from the Hon'ble Delhi High Court restraining Hero Electric from manufacturing, selling, exporting, or advertising a scooter model developed by Hero called Dash. Honda alleges that Dash carries infringement of design of the rear cover, front and rear lamp of its Moove scooter whose design registration was done in December 2014. The matter is now listed on 30th June, 2020 for hearing the Hon'ble Delhi High Court <sup>6</sup>.

**For any details contact us at:**

[jainkumarlegal@outlook.com](mailto:jainkumarlegal@outlook.com)

**Address:**

M-96, First Floor, Connaught Place, New Delhi-110001 India

**Contact Details:**

**Office:** 011- 23412800

**Mobile:** +91 9560636357, +91 9818451124



---

<sup>6</sup> CS (Comm) No. 135/2020 titled Honda Motor Co. Ltd. v. Hero Electric Vehicles Pvt. Ltd. order dated 11.06.2020