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Concept & Editing by: Dr. Niti Dewan

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Telco Vs. T. Series

In a dispute between TELCO and Super Cassettes Industries with regard to the 'T' inside a circle in Super Cassettes Industries' mark 'T' SERIES, the Hon'ble Delhi high Court held in favour of Super Cassettes Industries

The Dispute began when in 1991 TELCO opposed the SCIL mark in 1991. TELCO contended that a circle around a 'T' is the house mark of TELCO and there was likelihood of confusion and deception if SCIL was granted registration of its mark. The Deputy Registrar before whom the opposition was conducted rejected TELCO's opposition as he found that SCIL's mark was different from that of TELCO & there was no likelihood of confusion; and that TELCO did not have a monopoly over the letter 'T'.

ITC vs. Godfrey Phillips

No, this is not the same dispute as the Welcome Group 'W' and Marlboro 'M' dispute that we saw a few months back; ITC has this time contended that Godfrey Phillips is violating ITC's copyright by marketing its newly launched Sunflake Gold cigarettes. ITC filed a suit before the Bombay High Court for restraining Godfrey Phillips from marketing and selling the said brand of cigarettes. ITC alleged that the look and dimensions of the cigarette pack of Godfrey Phillips, the price and size of the cigarette were similar to its product Wills Flake Excel, which ITC had introduced in the market in 2009. The Counsels for Godfrey Phillips, Mr. Aspi Chinoy and Mr. Venkatesh Dhond, however argued that although there was some similarity in the packing, it could not be termed copyright violation. The Bombay High Court however prima-facie found in favour of ITC and passed an order temporarily restraining Godfrey Phillips from marketing and selling Sun Flake Gold cigarettes. Godfrey Phillips has filed an appeal before a division bench of the Bombay High Court challenging the abovementioned order.

SC Allows cosmetics company to sue Australian Unilever

The Supreme Court has allowed a Mumbai based cosmetics company to sue the Australian FMCG giant Unilever. This has been the latest development in a dispute which started last year when in October 2009, Shringar Cosmetics Pvt Ltd., a Mumbai based cosmetics company, sued Unilever alleging infringement by Unilever of its trade mark 'Instinct' by selling their 'Axe-Instinct' range of products. Unilever had approached the Apex Court seeking a stay on the proceedings on the ground that, as Unilever does not manufacture, sell or transact its business in India, it could not be sued in India for Trademark Infringement. Unilever, manufactures various products including the well-known 'AXE' range of products which according to Unilever it sells to various companies; one of those companies being Hindustan Unilever Ltd. According to Unilever it sells its products to Hindustan Lever in Australia and thereafter those products are imported in India. The Supreme Court however rejected its plea and allowed Shringar to proceed against Unilever.

Britannia versus Parle

M/s. Britannia Industries Limited filed a case against Parle Products Pvt. Ltd. in Delhi High Court, in April 2010, praying for permanent injunction and seeking damages for disparagement and unfair trade practices. The dispute arose when Parle published an advertisement in the newspapers drawing a comparison between the cookies of both the parties namely "BRITANNIA GOOD DAY" and "PARLE 20-20" making a representation of smiling faces under Parle biscuits and sad faces under Britannia biscuits. In addition to the above, a disparaging slogan "---BAKI GHUMAYE GOL-GOL" was used.

The matter was finally settled between the parties; in the settlement, Parle stated that it has already discontinued the said advertisement and stated that it would give no fresh instructions to newspapers to print the impugned advertisements.

Tall Claims Brought Down

After receiving a notice from Food Safety and Standards Authority of India (FSSAI) accusing it of “misbranding” the malted drink for children it produces under the trade name ‘Kissan Amaze’, Hindustan Unilever Ltd (HUL) has proposed to change the labelling of the drink. The FSSAI, a statutory body under the ministry of health charged with ensuring food safety, set up an investigative committee after receiving a complaint from a group of scientists that the claims made by HUL with regard to its malt drink such as “Amaze gives 33 per cent of the key brain nutrients required by children daily” were false. After conducting their investigation the Committee reported that there was no scientific truth to the claims made by HUL with regard to ‘Amaze’. It is heartening to see that tall claims made by corporates regarding the magical properties of their products are now starting to be regulated.

RBI Exemption of Govt. Approval for Tech Collaboration Royalty

In a move that is sure to give a boost to technical collaboration across borders, the RBI has vide notification no. _____ dated 13th may 2010, permitted banks to allow “withdrawal of foreign exchange by persons for payment of royalty and lump-sum payment under technical collaboration agreements without the approval of Ministry of Commerce and Industry, Government of India.” Another possible consequence of this notification might be the unchecked withdrawal of foreign exchange as royalty for frivolous / inconsequential technical expertise cloaked under the guise of legality.

Reliance Trade Mark Settlement

The Ambani brothers have settled the long standing dispute regarding use of one of their group’s most valuable asset, the Trademarks, especially Reliance. Both sides put in exceptional resources to draw up an agreement to govern use of the trademark ‘Reliance’.

In a country such as India, where businesses are owned jointly by extensive joint families, such problems are common. Once a business owned by a joint family splits up, the use of the Trade mark, which has been established through years and years of entrepreneurship and which accrues a huge amount of goodwill, is one of the most disputed assets some other examples of similar cases are- Kirloskar, Parle, Maganlal Chikki & Kamdhenu.

Delhi HC rules in favour of Havells in a Patent Infringement Suit

In an on-going patent infringement suit filed by Asian Electronics Ltd. against Havells Indian Ltd., the Delhi High Court on 19th April, 2010 dismissed an application for interim injunction filed by Asian Electronics. Asian Electronics Ltd., who holds the Patent No. 193488 (for converting fluorescent lighting units, such as tube-lights, from working on an inductive operation mechanism to an electronic operation mechanism without the need for any re-wiring) contends that, Havells manufactures and sells identical lightening unit and conversion system under the brand and style, ‘Prodigy’. The Hon’ble Court noted that the Plaintiffs invention claims not just an individual component but several individual components; on in-dept analysis it was found that the Patent 193488 lacks an inventive step and was anticipated from a prior U.S. Patent cited by the Defendant, which described the entire invention being claimed by the Patent 193488.

Laawaris Song Controversy

A lot of us must remember the song ‘Apni toh jaise taise’ from the Amitabh Bachhan classic ‘Laawaris’. The immensely popular song was presented as a remix in a recent movie ‘Housefull’ produced by Sajid Nadiwala. The controversy revolves around ownership of copyright over the song.

The use of the song in the movie Houseful has been disputed by:

Puneet Mehra the son of the late Mr. Prakash Mehra who

was the director, producer and lyricist of the original

song. 'Apni toh jaise taise'.

Anandji Virji Shah, one of the two music composers,

who composed the song

The facts appear to be as under:

In 1981 Prakash Mehra Productions transferred and assigned to Saregama among other things, the rights of the soundtrack in the film Laawaris (1981) vide an agreement; in 2010 Saregama vide an agreement licensed the rights to exploit the song to Super Cassettes Industries Ltd.(SCIL) and Nadiadwala Grandson Entertainment (NGE) Pvt Ltd.

It appears that trouble began when Saregama, SCIL and NGE received notices from Puneet Mehra and Anandji for reuse of the song.

Thereafter Saregama instituted a declaratory suit against Puneet Mehra and Anandji in the Calcutta High Court under section 60 of the Copyright Act praying for an injunction restraining Puneet Mehra and Anandji from claiming any rights in the song, and from making any threats of legal proceedings or liability. The Calcutta High Court granted the injunction. Puneet Mehra and Anandji thereafter filed suits against NGE and SCIL, Justice Nadira Patherya of the Calcutta High Court heard all three matters and decided that, injunction be granted in favour of Puneet Mehra restraining NGE from exploiting the song till 30 June 2010, and the injunction granted against Puneet Mehra and Anandji earlier be vacated. The court also dismissed the suit filed by Anandji against NGE stating that Anandji had composed the song for valuable consideration and therefore retained no copyright in the song or its composition.

The latest in this whole saga is that NGE appealed before a division bench of the same High Court against the order restraining it from exploiting and featuring the song. The division bench stayed the order restraining NGE and thus has allowed NGE to feature and exploit the song.

Mahabaleshwar Strawberry gets GI protection

Happy news for the strawberry farmers in Mahabaleshwar and Panchgani region of Maharashtra .This year the Mahabaleshwar Strawberry was accorded the Geographical Indication Protection. All India Strawberry Grower's Association's chairman Balasaheb Khilare, said, "There are over 1800 strawberry growers in Mahabaleshwar-Panchgani belt on 2000 acres and produced 20,000 tonnes of strawberries every year. The total cost of the production is more than Rs 100 crore. The climatic condition of Mahabaleshwar is more suitable for growing strawberries than any other part of the country and is similar to Europe and hence, we are able to grow good quality fruits over here. The taste and sweetness of this fruit is unique."Click here for some of the other products which received GI status recently.

Patent Office to Hire

Excellent news for our patent system- The Govt. has proposed to hire about 500 personnel to be employed at the patent office. For the already beleaguered staff this would spell much more efficiency and manageable workloads. The Secretary of Department of Industrial Policy and Promotion (DIPP) said at a FICCI function that "This year the budget for IPR is Rs 70-80 crores ... something like 400-500 people will be employed this year to tone up the administration in the patent office". The secretary further stated "The patent and trademark are two different ball games altogether. Both require different skill sets..., we are trying to see whether it is possible (to separate these two)."

E-bay Auction Patent Granted

eBay has come out victorious; 11 years after applying for its "Computer-implement method and system for conducting auctions on the Internet" it has finally been granted a patent for the same by the USPTO. It will now have exclusive ownership over its online auction process model. This could spell trouble for its competition that will now have to take licenses from e bay or have to pay damages if they infringe the patent.

The abstract for the patent is as under: Methods and apparatus for a system for facilitating electronic commerce transactions with a first data storage location for holding information about an item for auction from a first participant in a data packet network, a verification process that verifies the user identification of the first participant in said data packet network, the verification process confirming a user identification before allowing the participant in said data packet network access to place information about an item for auction in the system, a display process for displaying information of the



item for auction to a plurality of data packet network users, the display process displaying an advertisement with the item for auction to the plurality of data packet users, an auction process for receiving bids on the item for auction from at least one of said plurality of data packet network users, the auction process also verifying a user identification from said at least one of a plurality of data packet network users before allowing receipt of the bid and a notification process for notifying the plurality of data packet network participants that said bid was accepted by said system.