



Legally Rooted - Newsletter

January 2024 | Issue 03

Dear Readers,

Welcome to the 3rd Issue of Singh & Singh Law Firm LLP's Newsletter. We are thrilled to bring you the latest insights and updates from the dynamic world of Intellectual Property (IP) litigation in our newest newsletter. Since our previous edition, there have been numerous significant developments that are reshaping the landscape of IP law.

In this edition, we highlight the recent landmark decisions in patent and competition law, including the pivotal victories we secured for our clients.

Our goal remains steadfast: to demystify the complexities of legal developments and present them in a clear, accessible, and engaging format. Dive in to stay informed and ahead in the ever-evolving world of IP law.

In This Issue

Lead Story02

Philips v OnePlus (Koninklijke Philips N.V v. Oplus Mobitech India Pvt. Ltd. & Ors., CS(COMM) 574/2019)

Key Case Updates at the Firm03

Delhi High Court Illuminates Design Infringement Principles in Havells vs. Polycab Case

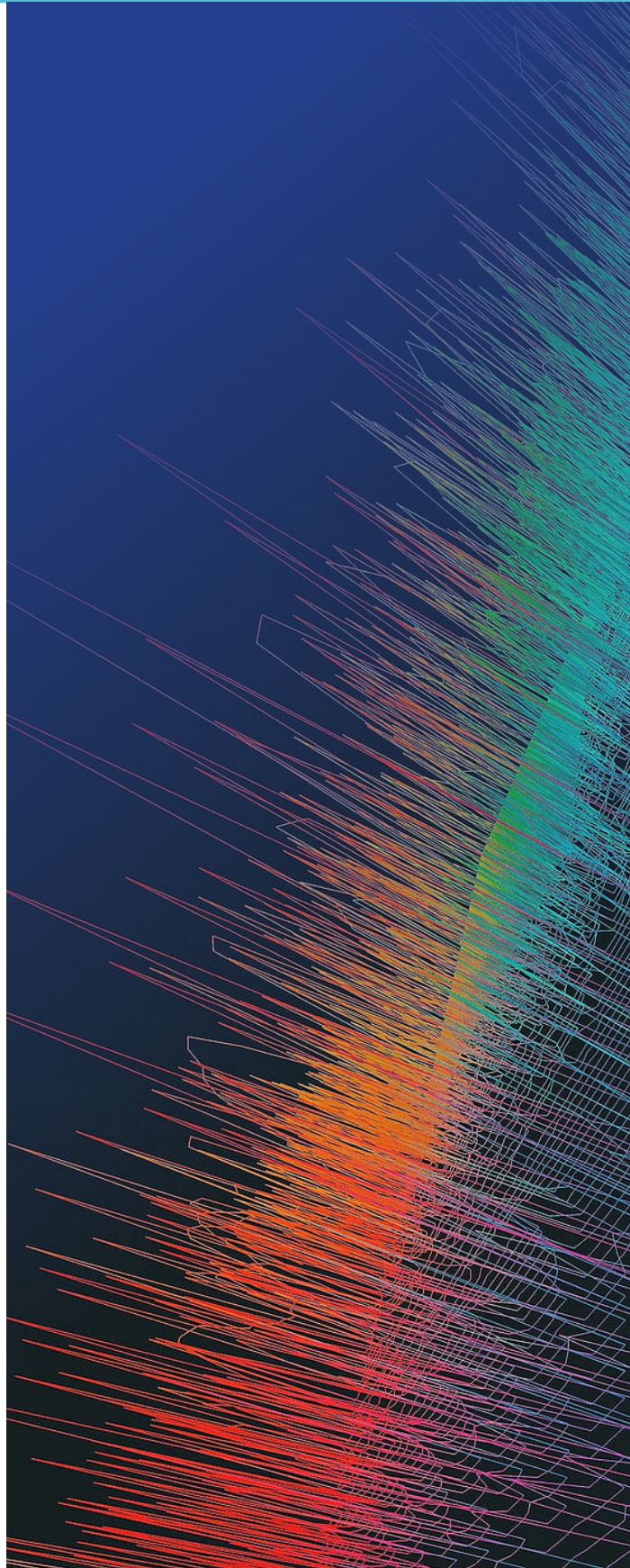
Boehringer Ingelheim Vs. Eris Lifesciences Case

Hon'ble DHC Orders in Favour of EXCHANGE22

Authorships04

Podium Moments05

Firm Accolades06



Philips v OnePlus (Koninklijke Philips N.V v. Oplus Mobitech India Pvt. Ltd. & Ors., CS(COMM) 574/2019)

Recently, a landmark order was passed by the Hon'ble Delhi High Court regarding the issue of pro-tem (a Latin phrase that means "for the time being") deposits in Standard Essential Patent (SEP) cases.

This important order was passed in Philips v OnePlus (Koninklijke Philips N.V v. Oplus Mobitech India Pvt. Ltd. & Ors., CS(COMM) 574/2019), wherein the Court, inter alia, held:

- the pro-tem order of deposits can be passed even on the first date of hearing without a detailed exploration of the merits of the case;
- for a pro-tem order of deposits, there is no need to go into the triple test (establishing a prima facie case, balance of convenience, and irreparable injury) that is applicable for the grant of an interim injunction;
- there is no need to file a separate application for seeking pro-tem deposits.

Therefore, while dealing with a temporary/interim injunction application, the court can first pass a pro tem deposit order and then proceed with the issue of temporary injunction;

the obligation to furnish security/deposits starts during the negotiation stage itself i.e. pre-litigation;

This order is another step in strengthening the FRAND protocol in India as prescribed in the recent landmark judgment passed by the Hon'ble Delhi High Court in Ericsson vs Intex (2023: DHC:2243-DB).

Philips was represented by **Mr. Chander M. Lall**, Senior Advocate with **Ms. Saya Choudhary**, **Mr. Ashutosh Kumar**, **Ms. Vrinda Bagaria**, **Munesh Sharma**, **Swarnil Dey** and **Devanshu Khanna**, Advocates from Singh & Singh Law Firm LLP.

Key Case Updates at the Firm

Delhi High Court Illuminates Design Infringement Principles in Havells vs. Polycab Case

In a landmark judgment, the Delhi High Court has clarified crucial aspects of design infringement, setting a precedent for future cases. The case involved Havells India Limited's allegations against Polycab India Limited for infringing on its registered ceiling fan designs.

Key Takeaways

Overall Impression Matters: The Court underscored that in design piracy cases, it's the overall impression of the design that counts. Details and minor elements should not be dissected in isolation but considered as part of the whole design.

Focus on Novelty and Originality: Differentiating between the assessment of a design's novelty/originality and infringement, the Court highlighted the need for a distinct approach in each scenario.

Ignoring Minor Differences: Emphasizing practicality, the Court advised ignoring minor trade variants and insignificant differences when comparing designs, focusing instead on significant, eye-catching features.

Case Outcome: Upon comparing Havells' designs with Polycab's products, the Court found striking similarities, leading to a prima facie case of infringement against Polycab.

Havells was represented by Darpan Wadhwa, Sr. Advocate along with Sudeep Chatterjee, Kunal Vats, Sanyam Suri at Singh & Singh Law Firm LLP.

This ruling not only reinforces the importance of unique design in the competitive market but also guides businesses on how to navigate the complexities of design protection and infringement.

Boehringer Ingelheim Vs. Eris Lifesciences Case

In the series of patent litigations initiated by Boehringer Ingelheim for the molecule Empagliflozin against various defendants, a Division Bench of the Hon'ble High Court of Himachal Pradesh has passed orders in favour of Eris Lifesciences, upholding the cardinal principle that interim orders cannot be passed without recording findings on prima facie case, the balance of convenience and irreparable harm.

The orders come in the wake of an appeal preferred by Eris Life Sciences against the ad-interim order passed on 08.09.2023.

Staying the order on the very first date of listing, the Hon'ble Court proceeded to allow the appeal on 06.12.2023, remanding the matter back to the Hon'ble Single Judge, holding that law requires that the reasons for the existence of the 3 factors must be recorded in the order granting an injunction.

The team at Singh & Singh Law Firm LLP was led by **Bitika Sharma** along with **Vrinda Pathak, Aadya Chawla, Manjunathan P.S.**

Hon'ble DHC Orders in Favour of EXCHANGE22

Singh & Singh Law Firm LLP had an occasion to represent Hulm Entertainment Pvt. Ltd. before a Division Bench of the Hon'ble High Court of Delhi in an appeal filed against the judgment dated 17.10.2023 whereby the Ld. Single Judge had vacated the ex-parte interim order of injunction granted in favour of the Plaintiff's who claimed that the Defendants were indulging in infringement of copyright by copying the Plaintiff's application EXCHANGE22.

The Ld. Single Judge while vacating the injunction order was pleased to note that the Defendants had pointed out the launch of certain applications prior to EXCHANGE22 and had placed on record supporting documents such as screenshots of the Wayback Machine and WhoIs data. Thus, the Court was unable to hold in favour of the plaintiffs that the gaming application was an original expression of an idea, to grant proprietary rights or monopoly, and injunct the defendants from using the impugned application.

The Hon'ble Division bench while staying the impugned judgment was pleased to note that prima facie, the material before the Ld. Single Judge was not sufficient to reject the Plaintiff's claim of originality of its mobile app. Noting that the impugned judgment had been delivered over a year after having being reserved, the Hon'ble Division Bench was of the view that the appeal raised issues worthy of consideration.

The Hon'ble Division Bench, while granting a stay on the operation of the impugned judgment directed the respondents to maintain status quo in terms of the order dated 25.04.2022 passed in CS(Comm.) 244/2022, thereby directing that the "Stocks" feature of the Respondent No. 1's application MyFab11 would be removed.

The firm was represented by **Sudeep Chatterjee, Rohan Swarup, and Tanya Arora**

Authorships



Bitika Sharma, Partner, Singh & Singh Law Firm LLP was featured in The Global IP Matrix Magazine for an article that discusses the imperative shift towards green technology to address climate change and environmental challenges.

Podium Moments



Ashutosh Kumar, Partner

Ashutosh Kumar spoke at a webinar jointly conducted by "LES India" and the "LES-Patent and Technology Licensing Committee". The webinar was titled "The evolving SEP Jurisprudence (with a Special focus on India)" which was panel discussion of eminent SEP experts.



Vivek Ranjan Tiwary, Associate Partner

Vivek Ranjan Tiwary conducted a session on blockchain and copyright/TM issues at the National University of Study & Research in Law, Ranchi at Centre for Study and Research in Intellectual Property Rights, NUSRL Ranchi (CSRIPR).

Topics Discussed: NFTs, issues of copyright/TM infringement, contractual liability in the metaverse, as well as issues related to ownership of IP rights when rights are conveyed using smart contracts in a blockchain system. A brief discussion on *Hermes v. Roathschild*.

FIRM ACCOLADES



Listed at the recently announced rankings by Legal 500 Asia-Pacific India



Featured as a Leading Lawyer in the recently announced rankings by Legal 500 Asia-Pacific India



Singh & Singh Law Firm LLP is delighted to be listed at the recently announced rankings by Chambers and Partners Asia-Pacific India



Sudeep Chatterjee, Partner, has been featured as a Leading Lawyer in the recently announced rankings by Chambers and Partners Asia-Pacific India



Sudeep Chatterjee, Partner, has been appointed as the Co-Chair for the IT & Website Committee for the Asian Patent Attorneys Association (APAA)



SINGH & SINGH

Address

New Delhi

C-139, Defence Colony
New Delhi - 110024
India

Contact

singhandsingh.com
email@singhandsingh.com
T +91 11 - 4987 6090
T +91 11 - 4982 6000 to 6090