

Intellectual Property advocacy in the fields of:

- IP Infrastructure
- IP Policy
- Patent Law
- Copyright
- IP Valuation
- Technology Transfer
- Licensing
- Collaborations
- M & A
- Innovation Research
- Data Management
- Balance for Rights & Obligations

JANUARY 2025 - Supplementary Issue

Editorial

An exciting feature is evolving in [TechEx.in](https://www.techex.in) through the excellent contribution from Dr. Premnath at Venture Centre, Pune through the “The Matchmaker” for innovators to showcase their innovation to pharmaceutical industry for commercialization. The detailed features of this initiative are reproduced below. This is a golden opportunity for pharmaceutical industry to reach-out and build bridges with breakthrough innovators, to enable India to move up the ladder through pharmaceutical innovations and technologies in-line with its positioning as “Pharmacy of the World”.

TechEx.in - “The Matchmaker”

A Very Happy New Year to All!

[TechEx.in](https://www.techex.in) is excited to announce a special opportunity for innovators to showcase their groundbreaking technologies and potentially collaborate with the pharmaceutical industry!

Technology Matchmaker for Process Innovations in Pharmaceuticals (PPMM) is your platform to:

- Connect with experienced advisors in the pharmaceutical industry domain.
- Showcase your research and potential commercial applications.
- Foster prospective industry-academia partnerships that drive innovation and impact.

Call for Technology submissions by the Providers is OPEN NOW!

Technology providers who have innovative solutions for pharmaceutical drug processing, address challenges in drug manufacturing and drug delivery, and potentially collaborate with technology seekers seeking advancements in the field.

CALL OPEN TILL January 10, 2025

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Contact: Kavita Parekh | +91 8956457042 | kavita.parekh@venturecenter.co.in

For more details visit: <https://www.techex.in/matchmaker/08>

TechEx.in presents
Technology Matchmaker for

Process Innovations in Pharmaceuticals

Opportunity to showcase your technologies to the industry and catalyze innovations to the market.



For Technology Providers,

**CALL OPEN NOW
till 10 Jan 2025**

For more details, visit



<https://www.techex.in/matchmaker/08/>

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SUMMARY OF KEY HIGH COURT JUDGMENTS FROM 2024

1. Signal Pharmaceuticals Vs Deputy Controller of Patents on 21 November, 2024 (Madras High Court) -

The patent application titled “mTOR kinase inhibitors for oncology indications and disease associated with the mTOR/P13K/AKT Pathway” (3500/CHENP/2011) was denied by the Controller on the grounds of violating Section 3(d) (which aims to prevent evergreening) and lacking an inventive step as per Section 2(1)(ja). The appellant contested this ruling on seven grounds, asserting that the Controller disregarded evidence that demonstrated the invention's inventive step and its adherence to Section 3(d). The applicant presented three primary arguments against the

rejection, particularly disputing the Controller's conclusions regarding the inventive step and Section 3(d). They contended that the Controller's decision was inadequately reasoned and did not take into account all relevant submissions. The Court did not engage with the issues of inventive step or Section 3(d) but determined that the Controller's decision was unreasoned due to the failure to acknowledge the applicant's submissions.

As a result, the Court remanded the matter to the Indian Patent Office for a fresh evaluation, highlighting previous criticisms directed at the Patent Office for issuing decisions lacking sufficient reasoning.

2. BASF SE Vs Deputy Controller of Patents on 28 November, 2024 (Madras High Court) -

The appeal concerns a decision made on January 1, 2024, by the respondent, which denied the appellant's request for a patent related to a Divisional Application. The refusal was based on the assertion that the Divisional Application was submitted after the original patent had been granted, contrary to the stipulations of Section 16 of the Patents Act, 1970. This section mandates that a Divisional Application must be filed before the grant of a patent.

The appellant contends that the Divisional Application was filed on the same day the original patent was granted, and thus, the timing of the patent grant was not known to them. The respondent's argument that the patent was granted prior to the Divisional Application was acknowledged but deemed irrelevant, as the appellant could not ascertain the exact timing of the grant.

Furthermore, the appellant's counsel argued that the decision violated principles of natural justice. The notice of hearing did not address the distinctiveness of the claims in the Divisional Application, which was later cited as a reason for the refusal. The lack of opportunity for the appellant to respond to this point before the decision was made was highlighted as a significant procedural flaw.

The court found merit in the appellant's arguments, noting that the impugned order reflected a lack of consideration of the facts and violated natural justice principles. Consequently, the court quashed the order and remanded the matter back to the respondent for a fresh evaluation of the Divisional Application. The respondent is instructed to make a decision within

six months and to appoint a different Controller to ensure impartiality in the review process.

3. Telefonktiebolaget Lm Ericsson(Publ) vs Lava International Ltd on 28 March, 2024 (Delhi High Court)

The legal dispute between Lava and Ericsson began in 2015, with Lava accusing Ericsson of failing to offer patents at reasonable royalty rates. In response, Ericsson asserted that it had sought to negotiate licensing agreements under Fair, Reasonable, and Non-Discriminatory (FRAND) terms, but Lava refused to engage in these negotiations. Subsequently, Ericsson initiated a lawsuit against Lava for patent infringement, alleging that Lava continued to manufacture devices without obtaining the necessary licenses.

In its counterclaim, Lava sought to invalidate Ericsson's patents related to algorithms and computer programs, contending that Ericsson had not fully and fairly disclosed its standard essential patents (SEPs) or provided appropriate FRAND licensing terms. The court ultimately determined that Lava was an unwilling licensee, citing its lack of good faith in negotiations and failure to respond to inquiries regarding royalty rates. The ruling indicated that had Lava entered into a FRAND license agreement at the beginning of its operations, Ericsson would have been entitled to compensation for lost royalty fees.

The court found Lava liable for infringing seven of Ericsson's patents associated with 2G, EDGE, and 3G technologies, mandating that Lava compensate Ericsson for damages, including interest accruing at 5% per annum from the judgment date until full payment is made. However, the court also partially supported Lava's counterclaim, resulting in the revocation of one of Ericsson's patents concerning the 'Linear Predictive Analysis by Synthesis Encoding Method and Encoder.'

4. Vifor International Ltd & Anr. vs Corona Remedies Pvt Ltd & Anr. on 7 February, 2024 (Delhi High Court)

In a landmark judgment about "product-by-process" patent claims, this type of claiming is seen as necessary when a patentee cannot fully describe a new product by its structure and must instead explain how it is made. The Delhi High Court's Division bench clarified that patent protection for these claims applies to new and inventive products, no matter how they are made. This decision differs from a previous single judge's ruling, which stated that protection only covered products made through the described process. The judgement also provided guidance on interpreting claims to understand the patentee's intent, highlighting the difference between "obtainable by" (which suggests a descriptive process) and "obtained by" (which indicates a process claim). Ultimately, the division bench overturned the single judge's decision, issuing a lengthy 188-page judgement. To ensure clarity, the judgement includes a detailed index and a section outlining the "cardinal principles."

5. Delhi High Court Rulings on Celebrity Rights Galore: Examining the Rajat Sharma and Mohan Babu Orders

In recent times, the Delhi High Court has been spewing out decisions involving the Personality Rights of celebrities. We had the Anil Kapoor decision last year and similar rulings followed in 2024 dealing with the rights of Jackie Shroff, Vishnu Manchu, Arijit Singh. This post will primarily focus on two such orders passed in the previous week to protect the personality rights of television journalist Rajat Sharma and Telugu film actor Mohan Babu.

<https://spicyip.com/2024/12/delhi-high-court-rulings-on-celebrity-rights-galore-examining-the-rajat-sharma-and-mohan-babu-orders.html>

The Multitude of AI and IP developments

In addition to the news of the first Indian copyright dispute on infringement via a Large Language Model, Artificial Intelligence's interplay with IP was also under the spotlight in the Parliament. First, in February, in a response to a series of unstarred questions regarding copyright infringement by generative AI, Som Parkash, the Union Minister of State for Commerce and Industry, clarified that the existing IPR regime is well-equipped to protect Artificial Intelligence (AI)-generated works. Interestingly, in 2021, the 161st Parliamentary Report recommendation had recommended "create[ing] a separate category of rights for AI and AI-related works".

Then in July, a private member bill was presented by P Sandosh Kumar in Rajya Sabha seeking to regulate AI by establishing a National Artificial Intelligence Regulatory Authority (NAIRA). The bill is currently pending in the Parliament. The topic of AI also received some attention from the Executive as in the month of March MeitY published an advisory inter alia directing intermediaries and platforms to obtain the government's permission before deploying certain AI models in India. However this requirement was later withdrawn from the revised advisory.

In December, the Government stated that it was funding two research projects aimed at detecting fake videos, audio, and images generated using AI and has also formed a 9-member committee to study different issues associated with deepfakes.

The Government shared this information in a submission made before the Delhi High Court in a Public Interest Litigation initiated by journalist Rajat Sharma. Likewise on July 26 the Bombay High Court had issued an injunction against owners/operators of AI platforms which were mimicking Arjith Singh's voice, image and likeness.

<https://spicyip.com/2024/12/a-look-back-at-indias-top-ip-developments-of-2024.html>

Courtesy: Spicy-IP