

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

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## EDITORIAL

### BIOPROCESSING – NEED OF THE HOUR FOR INDIA

In view of the global turbulence in international trade, not only through disruptions in shipping routes but also from intentional supply chain variations, often through dumping or withholding of key building blocks, India needs to strengthen its manufacturing base to become more self-reliant. Recent attempts to supplement petrol with ethanol to reduce the crude import burden and also encourage domestic production of ethanol as a fuel have proved highly beneficial in reducing the import bill for crude; however, they are facing criticism for the fuel efficiency in vehicles using E-petrol. India needs to adopt biotechnology-based solutions beyond ethanol to blend fossil fuels more efficiently to reduce petroleum imports, which have become highly volatile.

Innovative bioprocessing has been employed from time to time to reduce polluting multi-stage synthetic processes and to substantially cut emissions. One of the best examples is the breakthrough bioprocess for the manufacture of Naproxen through enzymatic kinetic resolution to synthesize the active (S) enantiomer directly, employing microbial degradation pathways leading to environmental bioremediation. The enzyme catalysis processes employing specific hydrolases and lipases, such as Carica papaya lipase or amidases, lead to (S)-Naproxen with high

optical (99+%) purity and high yields. Another recent example of green synthesis is the recently developed organocatalytic process to manufacture Obicetrapib, an advanced drug for dyslipidaemia. Asymmetric Povarov cyclization is used to prepare a chiral tetrahydroquinoline core for Obicetrapib. Similar processes involving green chemistry and bioprocesses need to be developed more and more by Indian scientists to enable self-reliance and to reduce the import burden and trade dependency.

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## DELHI HIGH COURT CLARIFIES APPROACH TO

### ASSESSING INVENTIVE STEP IN PATENT

#### APPLICATIONS

In *Sulzer Mixpac AG v. Assistant Controller of Patents and Designs* (LPA 545/2024, decided on 1 July 2026), the Delhi High Court dismissed an appeal challenging the rejection of a patent application for a **static mixer**, reaffirming the standards for assessing **novelty and inventive step** under Sections 2(1)(j) and 2(1)(ja) of the Patents Act, 1970.

The invention related to a plastic static mixer comprising multiple installation bodies connected through a common bar element. The Applicant contended that the inventive contribution lay in connecting **more than five installation bodies**

using a common bar element, resulting in improved structural rigidity, reduced pressure loss, and enhanced mixing performance.

The Patent Office rejected the application on the ground that the claimed features were anticipated or rendered obvious by prior art documents (D1-D4). The Delhi High Court agreed with this finding, observing that the prior art already disclosed multiple installation bodies connected through equivalent connecting elements and that modifying the existing arrangement to connect a greater number of installation bodies would have been obvious to a person skilled in the art. The Court also noted that the Applicant had failed to demonstrate any unexpected technical effect or comparative technical advantage over the cited prior art.

The Appellant further argued that the learned Single Judge had not applied the five-step test for assessing obviousness formulated in *F. Hoffmann-La Roche Ltd. v. Cipla Ltd.* Rejecting this contention, the Division Bench clarified that the Roche framework serves as a guiding analytical tool rather than a rigid or mandatory formula. The Court held that the validity of an inventive step analysis depends on the substance of the reasoning and not on strict adherence to any

prescribed sequence of steps.

The judgment also addresses the maintainability of a Letters Patent Appeal against a decision of a Single Judge under Section 117A of the Patents Act. Relying on its earlier decision in *Promoshirt SM SA v. Armasuisse*, the Court held that such an appeal is maintainable, as the bar under Section 100A of the Code of Civil Procedure applies only to appeals arising from decrees or orders of civil courts.

This decision reiterates that patent applicants must establish a genuine technical advance over the prior art and, where functional improvements are asserted, support such claims with convincing comparative evidence. The judgment also reinforces that incremental modifications based on existing disclosures, without an unexpected technical effect, are unlikely to satisfy the statutory requirement of an inventive step.

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### DELHI HIGH COURT DECLINES INTERIM

### INJUNCTION AGAINST OPENAI IN ANI COPYRIGHT

### DISPUTE

In a significant development at the intersection of artificial intelligence and copyright law, the Delhi

High Court has refused to grant an interim injunction sought by Asian News International (ANI) Media Pvt. Ltd. against OpenAI Inc., holding, at the prima facie stage, that the use of copyrighted material for training ChatGPT's underlying large language models is protected under the fair dealing framework of the Copyright Act, 1957.

### Background

ANI instituted a copyright infringement suit in November 2024, alleging that OpenAI had reproduced, stored, and utilised its news content without authorisation for training the large language model (LLM) powering ChatGPT. ANI further contended that responses generated by ChatGPT infringed its copyright by reproducing or substantially reflecting its original news reports.

At the commencement of the proceedings, the Delhi High Court identified four principal issues requiring consideration:

- Whether storing ANI's copyrighted material for training ChatGPT constitutes copyright infringement;
- Whether the generation of responses based on such material amounts to infringement;

- Whether OpenAI's activities are protected under the fair dealing exceptions contained in Section 52 of the Copyright Act, 1957; and
- Whether the Delhi High Court possesses territorial jurisdiction despite OpenAI's servers being located outside India.

Recognising the broader implications of the dispute, the Court appointed two amici curiae to assist on the legal issues relating to the use of copyrighted works in generative AI systems. Detailed submissions were also received from several intervenors addressing the evolving legal framework governing AI model training and copyright protection.

### **Court's Findings**

Justice Amit Bansal held that the Delhi High Court had territorial jurisdiction to entertain the suit. However, on the substantive copyright issues, the Court found that ANI had not established a prima facie case warranting interim relief.

The Court observed that OpenAI's storage and use of ANI's literary works for training its language models, prima facie, falls within the scope of the exception provided under Section 52(1)(a) of the Copyright Act, 1957. Consequently, such use was held not to constitute copyright infringement

under Section 51 at the interim stage.

The Court also examined ANI's allegations concerning responses generated through Retrieval-Augmented Generation (RAG). It concluded that ANI had not demonstrated that ChatGPT's outputs were substantially similar to its copyrighted news reports or that the system reproduced its content through memorisation or verbatim regurgitation. Accordingly, no prima facie infringement was found in relation to the outputs generated by the AI model.

### **Refusal of Interim Relief**

While considering the balance of convenience, the Court emphasised the wider public interest involved in the development and deployment of generative AI technologies. It observed that granting an interim injunction at this stage could result in significant prejudice not only to OpenAI but also to the public interest. Since ANI failed to establish a prima facie case of infringement or irreparable harm, the Court declined to grant the requested interim injunction.

### **Significance**

The decision marks one of the first substantive judicial pronouncements in India addressing the

copyright implications of training generative AI models on copyrighted material. Although confined to the interim stage and without finally determining the rights of the parties, the ruling provides important judicial guidance on the application of the fair dealing provisions under the Copyright Act to AI training processes. It also underscores the evidentiary burden on copyright owners to demonstrate that AI-generated outputs reproduce protected expression rather than merely rely upon underlying information or knowledge.

As the matter proceeds to trial, the final determination is expected to play a pivotal role in shaping India's legal framework governing artificial intelligence, copyright, and the permissible use of protected works for machine learning.

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### **BOMBAY HIGH COURT REMANDS PATENT REJECTION**

#### **FOR FAILURE TO PROPERLY CONSIDER EVIDENCE**

In **Themis Medicare Limited v. Controller General of Patents, Designs and Trade Marks** (Commercial Miscellaneous Petition No. 47 of 2025, decided on 14 July 2026), the Bombay High Court set aside an order rejecting a patent application relating to injectable Diclofenac compositions and remanded the matter to the

Controller of Patents for fresh consideration. The Court held that the impugned order suffered from inconsistencies in its treatment of the evidence placed on record and did not adequately explain the basis for rejecting the Applicant's claims.

### **Background**

The patent application concerned an injectable diclofenac formulation claimed to provide reduced pain during administration by virtue of its viscosity and formulation characteristics. The Controller rejected the application under Section 15 of the Patents Act, 1970, inter alia, holding that the Applicant had failed to establish enhanced therapeutic efficacy under Section 3(d) of the Act. The rejection order observed that no comparative data had been provided to demonstrate improved stability or reduced pain when compared with existing formulations.

The Applicant challenged the order before the Bombay High Court, contending that extensive experimental evidence, including animal testing reports and supporting data submitted during prosecution, had not been properly evaluated.

### **Court's Findings**

Justice Somasekhar Sundaresan found that the Controller's order contained internally inconsistent

observations regarding the evidence on record. While certain portions of the order stated that no relevant data had been produced to substantiate the claimed advantages, other portions expressly recorded that the data contained in the complete specification and supporting affidavit had been duly considered.

The Court observed that these findings could not be reconciled. More importantly, although the Controller stated that the available data had been examined, the order did not explain why such evidence was considered insufficient to establish the claimed technical advancement or enhanced therapeutic efficacy. The absence of any reasoned analysis rendered the decision vulnerable on the principles of natural justice.

The Court also noted that the prosecution record included experimental studies, animal testing laboratory reports, written submissions, and data contained in the complete specification. Since these materials formed part of the record, they required specific consideration and reasoned evaluation before arriving at an adverse conclusion.

#### **Order of the Court**

Without expressing any opinion on the

patentability of the invention, the Bombay High Court set aside the impugned order and remanded the matter to the Controller. The Controller was directed to reconsider the application by examining all the evidence placed on record, including the experimental data and animal testing reports, and to pass a fresh, reasoned order explaining the basis for the conclusions reached.

#### **Significance**

The decision reinforces the importance of reasoned decision-making in patent examination proceedings. While the Court did not comment on the merits of the claimed invention or the applicability of Section 3(d), it emphasised that where an applicant has produced technical evidence in support of patentability, the Patent Office must meaningfully engage with such material and provide clear reasons for accepting or rejecting it. The judgment underscores that patent examination orders must reflect a transparent evaluation of the evidence and satisfy the requirements of procedural fairness, particularly where complex scientific and technical issues are involved.

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## **FERMENTA BIOTECH RECEIVES FSSAI APPROVAL**

### **FOR PLANT-BASED VITAMIN D3**

Fermenta Biotech Limited has secured approval from the Food Safety and Standards Authority of India (FSSAI) for its proprietary plant-based Vitamin D3 ingredient, VITADEE Green, marking a significant milestone for India's nutraceutical and food fortification sector. The regulatory approval permits the use of the ingredient in health supplements, nutraceuticals, fortified foods, and beverages, enabling the company to commercially launch the product in the domestic market.

Unlike conventional Vitamin D3, which is predominantly derived from lanolin obtained from sheep's wool, VITADEE Green is manufactured from a plant source, providing a vegetarian and vegan-friendly alternative. The approval is expected to address the growing demand for plant-based nutritional ingredients among consumers and food manufacturers seeking animal-free formulations.

According to the company, VITADEE Green was developed and is manufactured entirely in India using a patented process, making Fermenta one of the first Indian companies to successfully commercialise a plant-source Vitamin D3 ingredient. The product aligns with the

Government's 'Make in India' and Atmanirbhar Bharat initiatives by promoting indigenous manufacturing and reducing reliance on imported plant-based Vitamin D3 ingredients.

The regulatory clearance also has important commercial implications. It enables Indian manufacturers of dietary supplements, functional foods, beverages, and nutraceutical products to incorporate a domestically produced plant-based Vitamin D3 ingredient into their formulations, thereby expanding the range of vegetarian and vegan nutritional products available in the Indian market.

The announcement was well received by the market, with Fermenta Biotech's shares rising by over 14% following the news, reflecting investor confidence in the company's expansion into the rapidly growing plant-based nutrition segment.

### **Significance**

The FSSAI approval represents an important step in the evolution of India's nutrition and food ingredient industry. As consumer preferences increasingly shift towards sustainable, plant-based, and clean-label products, the availability of an indigenous plant-derived Vitamin D3 ingredient is expected to support innovation in food fortification and nutraceutical

manufacturing. The development also strengthens India's capabilities in high-value nutritional ingredients while enhancing opportunities for domestic manufacturers to cater to both Indian and international markets.

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### MORE THAN JUST A SIGNATURE: UNDERSTANDING

#### TRADEMARK PROTECTION FOR SIGNATURES

When trademarks are discussed, the focus generally falls on brand names, logos, slogans, or product packaging. However, the scope of trademark protection extends far beyond these conventional identifiers. One such lesser-known yet increasingly valuable form of intellectual property is a signature.

Under the Trade Marks Act, 1999, a signature may be registered as a trademark provided it is capable of distinguishing the goods or services of one person from those of another. Like any other trademark, the essential requirement is that the signature must function as a source identifier and possess sufficient distinctiveness.

The commercial significance of signatures has grown considerably with the rise of personal branding. Celebrities, sportspersons, musicians, authors, and other public figures frequently use their signatures as part of their commercial

identity. Recognising this value, several well-known personalities, including Kareena Kapoor, Shah Rukh Khan, Sachin Tendulkar, John Lennon, and Taylor Swift, have obtained trademark protection for their signatures.

Importantly, trademark protection for signatures is not confined to celebrities. Any individual or business whose signature has acquired distinctiveness in relation to specific goods or services may seek registration. For instance, a photographer from Ludhiana applied to register his signature as a trademark for photography services, illustrating that signatures can serve as valuable commercial identifiers irrespective of public fame. Businesses have likewise sought protection for authorised signatures that feature prominently in their branding, promotional materials, or commercial communications.

Registration of a signature as a trademark provides the proprietor with the exclusive right to use the signature in relation to the registered goods or services and to prevent unauthorised commercial use by others. Like any other trademark, a registered signature may be licensed, assigned, or commercially exploited, thereby becoming a valuable intellectual property asset.

However, not every signature is eligible for registration. The signature must possess distinctive character and should not merely represent an ordinary handwritten style or a commonplace representation lacking any source-identifying function. Depending on the circumstances, the applicant may also be required to establish the authenticity of the signature and demonstrate that it serves as a trademark rather than merely as a personal autograph.

As businesses increasingly rely on personal branding and individual reputation to build consumer recognition, signatures are assuming greater commercial significance. They are no longer confined to authenticating documents or executing contracts but are evolving into distinctive business identifiers capable of legal protection.

The expanding recognition of signature trademarks reflects the broader principle that trademark law protects not merely names and logos, but any sign capable of distinguishing the commercial origin of goods or services. For entrepreneurs, professionals, creators, influencers, and public personalities, a signature may therefore represent not only a personal mark of identity but also a valuable and enforceable

intellectual property right.

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## CGPDTM MANDATES E-KYC COMPLIANCE FOR IP

### ATTORNEYS

The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM), under the Department for Promotion of Industry and Internal Trade (DPIIT), has issued a Public Notice dated 9 July 2026 making electronic Know Your Customer (e-KYC) verification mandatory for all registered IP attorneys, including patent and trademark agents, practising before the Intellectual Property Office (IPO).

All registered practitioners are required to complete the e-KYC verification through the IP India e-filing portal using their existing login credentials within one month from the date of the notice. Timely compliance is essential to ensure uninterrupted access to the IPO's online services.

The mandatory e-KYC initiative is part of the CGPDTM's efforts to strengthen the security and integrity of the electronic filing system. Registered practitioners are advised to complete the verification within the prescribed timeframe to ensure uninterrupted access to the IP India e-filing portal and related online services.