

Intellectual Property advocacy in the fields of:

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

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## *Editorial*

In this New Year, Hon'ble Prime Minister in his first episode of 'Mann ki Baat' spoke about the dream of techade and bought to the fore India's increasing scientific capabilities, through innovation and patents, to achieve that dream. He noted that domestic patent filings have outscored the country's foreign patent filings. He said that patent filings in India have increased by over 50% in the last 5 years.

In the recent budget, it is indeed heartening to note that the Hon'ble Finance Minister of India, Smt. Nirmala Sitaraman has announced a new program to promote R&D innovation in pharmaceuticals. The newly announced scheme envisages setting up of Research Centres of Excellence among CSIR/ICMR Laboratories and encouraging Pharmaceutical industry to adopt and set up joint research programs under industry- academic partnerships. New nursing schools are also proposed to be set up, which brings in newer, hitherto unpursued opportunities for working and testing out novel innovations in real life scenario by tying up for trials with nursing schools under expert supervision. Dedicated multi-disciplinary courses for medical devices is proposed to be supported in existing institutes to ensure availability of skilled manpower for promotion and practice of medical technologies, high end manufacturing based on innovative research. These are welcome initiatives hailing from the Union Budget 2023-24.

These new initiatives proposed in the Union Budget should be viewed and taken advantage of , as novel catalysts for establishing long lasting , well bonded, Industry – Academia Partnerships to generate Innovations , even breakthrough discoveries, for bridging the gap in the market place and to benefit suffering millions globally, including for Rare / Orphan (drug) diseases , which India is ideally placed to exploit , with the large chain of CSIR and ICMR , DST /DBT/ BIRAC approved and funded Laboratories.

Indian Pharmaceutical, Biotechnology and Medical institutions as well as Medical Devices associations must take a lead in following up and for implementing the laudable initiatives put forward in the Union Budget to give a boost to Indian Innovative and Drug Discovery Research potential.

Source:<https://www.hindustantimes.com/education/news/new-programme-to-promote-research-in-pharma-fm-nirmala-sitharaman-101675233879075.html>

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## Falsified Pills and Role of Drug Regulators

In case of *Glenmark Pharmaceuticals v. Sanjeevani Medicos and others*, Hon'ble Justice Sanjeev Narula, while granting injunctions against the defendants (Sanjeevani), pulled up the Delhi Police and the Delhi Drug inspector, South West Delhi for dereliction of duty and for not taking necessary action in spite of receiving complaints from Glenmark about sale of spurious TELMA brands by the defendants. There is a dire need for vigilance and prompt action need to weed out spurious drugs and nefarious fly-by-night operators by both police and drugs control administration. It is indeed shocking that no prompt action is being initiated even after receiving complaint with evidence. Even in cases where the drug inspectors come across spurious medicines manufactured and labelled as if they are from reputed manufacturers and their brands, the drug inspector should notify the original genuine brand owning manufacturers and share the details of the spurious manufacturers/traders so that the brand owner can initiate legal action taken against spurious drug makers.

Source: [http://164.100.60.183/dhcqrydisp\\_o.asp?ctype=CS\(COMM\)&cno=38&cyear=2023&orderdt=20-Jan-2023](http://164.100.60.183/dhcqrydisp_o.asp?ctype=CS(COMM)&cno=38&cyear=2023&orderdt=20-Jan-2023)

## Bedaquiline anti-TB drug Patent Case

The Indian Patent Office had held its final hearing on a challenge filed by two tuberculosis survivors to prevent the Indian arm of drug maker Johnson & Johnson from extending its patent on bedaquiline, used against drug-resistant TB, beyond the primary patent's expiry in July.

Source: <https://www.hindustantimes.com/india-news/final-hearing-in-tuberculosis-drug-patent-case-ends-verdict-likely-in-a-month-101675017596040.html>

## Progress of legal proceedings in Valsartan+Sacubitril in Delhi High Court

The Valsartan+Sacubitril appeal filed by Novartis is pending before the Hon'ble Division Bench of the Delhi High Court. The next date of hearing is 27th and 28th February, 2023. This appeal by Novartis pursuant to the order of the Hon'ble Single Bench of the Delhi High Court, who set aside the Ld. Controller's order of grant of patent covering Valsartan+Sacubitril complex. As interim relief, the DB stayed the order of the SB, in effect reinstating the patent. The primary issue before court is whether the examination proceedings under Sections 14 and 15, and pre-grant opposition proceedings under Section 25 are independent to each other or stand merged and also whether examination can proceed without issuing notice to the opponent, especially when claims are amended.

Source: [http://164.100.60.183/dhcqrydisp\\_o.asp?ctype=LPA&cno=50&cyear=2023&orderdt=19-Jan-2023](http://164.100.60.183/dhcqrydisp_o.asp?ctype=LPA&cno=50&cyear=2023&orderdt=19-Jan-2023)

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## **Patent infringement: HC directs firm to pay Rs 2 crore damages to Pfizer**

Delhi High Court has directed a firm to pay Rs. 2 crore as damages to pharma giant Pfizer Inc. for committing “willful” and “contumacious” contempt of court by disobeying its order. The court said if the director of the firm, Triveni Interchem Pvt Ltd, fails to pay the amount in two weeks, he shall be taken into custody and detained in a civil prison for two weeks at Tihar jail here.

Source: <https://www.thehansindia.com/news/national/patent-infringement-hc-directs-firm-to-pay-rs-2-cr-damages-to-pfizer-781108>

## **Boston Scientific found guilty of infringing on drug-eluting stent patent, fined \$42M**

Boston Scientific was found guilty of infringing upon a patent that was awarded to the University of Texas system in 2003 and ultimately licensed to TissueGen. It concerns technology that TissueGen founder Kevin Nelson, Ph.D., developed while a faculty member at UT Arlington, designed to deliver drugs through an extruded fiber in an implanted vascular stent. TissueGen’s biodegradable Elute drug-loaded fibers launched in 2013 and could be customized to deliver a variety of drugs and fit into a devicemaker’s existing materials.

Source: <https://www.fiercebiotech.com/medtech/boston-scientific-found-guilty-infringing-drug-eluting-stent-patent-fined-42m>

## **What constitutes a trademark violation: Subway vs. Suberb in Delhi High Court**

The Delhi High Court has ruled that Subway cannot claim "exclusivity" or "monopoly" over "sub", the first part of its trademark "Subway", when used in the context of eateries which serve sandwiches and similar items.

Source: <https://indianexpress.com/article/explained/explained-law/what-constitutes-a-trademark-violation-subway-vs-suberb-in-hc-8394800/>

## **GCC Patent Office resume receiving patent applications for Bahrain and Kuwait starting from January 1, 2023**

In the latest Official Gazette issued by the Gulf Cooperation Council (GCC) Patent Office, the GCC Patent Office announced to resume receiving patent applications on behalf of Kingdom of Bahrain and State of Kuwait and examining them formally and substantively. Grants will be made by the national office. The new applications will be “national” patents and they will not consider as GCC patent applications, which means the granted patents will only have legal effect in the jurisdiction of the national patent office, either Bahrain and/or Kuwait where the applicant originally designated with the GCC Patent Office and is not valid for all the GCC member states.

Source: <https://www.lexology.com/library/detail.aspx?g=8f2c4d27-ec6a-4650-b6be-3c3f766ae2>

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## **Adidas Loses Stripe Trademark Battle To Luxury Designer Thom Browne**

Sportswear brand Adidas lost a trademark infringement lawsuit against American luxury fashion brand Thom Browne Inc. Adidas had claimed that Thom Browne's four stripes were too similar to its three stripes, as per a report in the BBC. Browne argued that his brand had a distinct number of stripes and consumers were unlikely to mix the two brands. Adidas had intended to seek more than \$7.8 million (Rs 63 crore) in damages, but a New York jury decided in favour of Browne. The three stripes are a common feature in Adidas designs while Browne's creations feature four horizontal, parallel stripes that round the sleeve of a garment.

Source: <https://www.ndtv.com/feature/adidas-loses-stripe-trademark-battle-to-luxury-designer-thom-browne-3690735>

## **Yezi trademark does not belong to Boman Irani and Classic Legends, says Karnataka High Court**

Declaring that Ideal Jawa (India) Ltd., which is under liquidation, is the owner of 'Yezi' (word and device) taken independently or in conjunction with other words, the Court said that the trademarks of the company remain in *custodia legis* of the Court as it is dealing with the liquidation proceedings, initiated in 1991 through the Official Liquidator (OL). The Court declared as null and void all trademark, registration certificates issued by Registrar of Trademarks, Mumbai, Delhi and Ahmedabad in favour of Boman Irani and directed the Trademark Registration Authority to transfer all such registrations to Ideal Jawa through the OL.

Source: <https://www.thehindu.com/news/cities/bangalore/yezi-trademark-does-not-belong-to-boman-irani-and-classic-legends-says-high-court-of-karnataka-ideal-jawa/article66306708.ece>

## **'Schezwan Chutney' Descriptive Of Quality: Delhi High Court Rejects Capital Foods' Plea For Interim Injunction Against Alleged Trademark Infringement**

Justice Navin Chawla said that extensive use of the mark 'Schezwan Chutney' or 'Szechuan Chutney' by other manufacturers indicates that the industry recognizes the mark as a description of the product. The court made the observations in its decision on an application filed by Capital Foods for grant of an ad interim injunction to restrain Radiant Indus Chem from using 'Schezwan Chutney' or 'Szechuan Chutney' marks for selling its products.

Source: <https://www.livewlaw.in/news-updates/schezwan-chutney-descriptive-of-quality-delhi-high-court-218912>