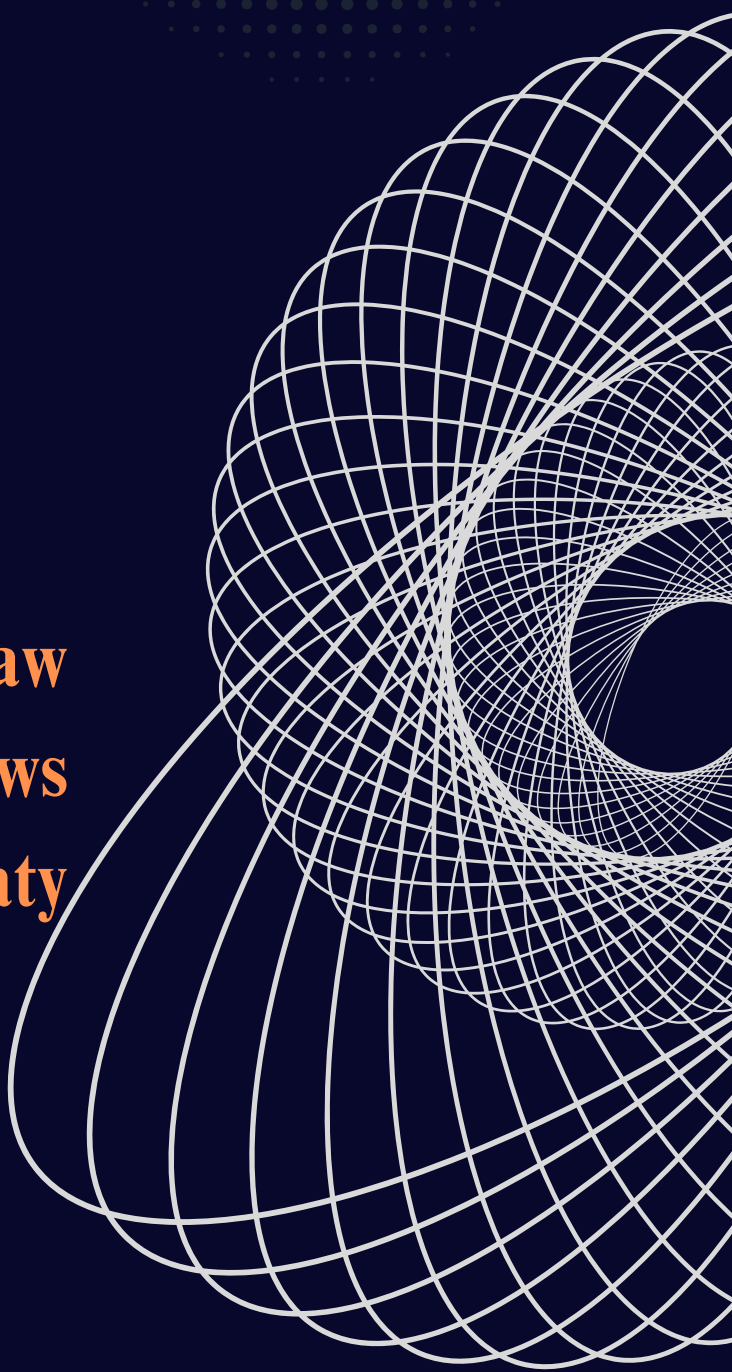
RAS Intellect Pvt Ltd

EDITION ONE

RASPREP



Module 9

Patent & Design Law Compendium: Key Case Laws and International Treaty Insights

PREFACE

This book has been crafted as a comprehensive yet accessible guide for students preparing for the Indian Patent Agent Exam. It brings together essential case laws, principles of patent and design law, and clear explanations of international frameworks such as the PCT and Paris Convention. The aim is to simplify complex legal concepts through structured notes, exam-oriented insights, and practical understanding. Whether you are revising foundational topics or exploring advanced provisions, this compendium serves as a reliable companion to strengthen the conceptual clarity. References include the Patents Act, 1970; Patents Rules, 2003 ; Designs Act, 2000; PCT; and Paris Convention, Key Indian case laws delivered by the Supreme Court, High Courts, the erstwhile IPAB, and significant Controller decisions.

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RAS INTELLECT SOLUTIONS Pvt. Ltd.
Unit 512, 5th Floor, Jubilee Walk, Sector 70,
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www.rasintellect.com

About the Company

At RAS Intellect, we turn ideas into powerful assets.

We help innovators — from solo founders to global enterprises — protect and profit from their intellectual property through expert patent, trademark, copyright and IP strategy services. Our team simplifies the complexities of IP law, guiding you from ideation to enforcement with precision and clarity. Wherever innovation happens, RAS Intellect ensures it's protected and positioned to grow.

Vision

At RAS Intellect, we envision a world where innovators and creators thrive — empowered by robust intellectual property protections that fuel creativity, drive collaboration, and support sustainable innovation.

Mission

To empower innovators and creators by safeguarding their intellectual assets through strategic, customized IP solutions and enabling them to compete, grow and lead in an innovation-driven world.

How We Protect Innovation: Our Services

Tailored IP solutions across protection, strategy, and capacity building.

- **IP Protection & Strategy**
  - Patents Filing
  - Trademark Registration
  - Copyright Filing
  - Design Filing
  - International Filing
  - Prosecution Services
  - Drafting of Technology Transfer Agreements
  - Patent Filing Support under SIPP Scheme for Startups- **No Professional cost/ hidden charges**
  - IC Layout Design
  - Plant Variety Protection
  - IP Policy Drafting
  - Licensing Agreements
  - Industry-Research Institute Collaborative Agreements
  - Confidentiality Agreement (Non-Disclosure Agreements)
  - Incubation center setup
  - Section **8 company** formation
  - Tailored training through **RASPREP** and capacity-building programs to foster IP awareness
  - Geographical Indication

Recent Milestones

Recognitions and Contributions from 2024–2025

- **National IP Outreach Mission – Viksit Bharat**

Dr. Ruchi represented RAS Intellect Solutions as a panelist in the "IPR for Women in Business" session organized by PHDCCI, contributing to the national dialogue on IP for inclusive innovation.

- **National IP Yatra 2025 – ASSOCHAM & MSME Ministry**

As co-panelist at this MSME Ministry-supported event, Dr. Ruchi addressed "Maximizing IP Value for Startups & MSMEs," underscoring the firm's expertise in IP commercialization.

- **National Intellectual Property Awards 2024 – Ministry of Commerce & CGPDTM**

Dr. Ruchi was invited to the prestigious IP Awards held at Bharat Mandapam, New Delhi, recognizing RAS Intellect's national contribution to IP literacy and strategy.

- **Leadership & Innovation Milestone – TiECON 2025**

Honoured by the Governor of Punjab, Dr. Ruchi received an award at TiECON 2025 for excellence in research and innovation leadership.

Building IP Foundations for Viksit Bharat

A visionary collaboration with Punjab School Education Board (PSEB)

In alignment with the national vision of **Viksit Bharat@2047**, RAS Intellect is collaborating with the **Punjab School Education Board (PSEB)** to introduce Intellectual Property (IP) education in schools across Punjab.

This initiative aims to embed IP awareness and foundational knowledge within the school curriculum — empowering students and educators to understand, create, and protect innovation from an early age. By nurturing IP consciousness at the grassroots level, we are shaping a generation of future-ready innovators equipped to lead India toward self-reliance and global competitiveness.

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Meet the Founder

Visionary leadership driving India's IP revolution

Dr. Ruchi Singla

Director & CEO, RAS Intellect Solutions Pvt. Ltd

- Over 20 years of experience in academic research, intellectual property strategy, and innovation leadership
- Recognized among the **Top 50 Mentors in India** for contributions to national mentoring initiatives
- Serves as a **Regional Mentor of Change** under the **Atal Innovation Mission**, NITI Aayog
- Successfully guided **over 2,300 patent filings** across diverse fields, including AI, drones, and cybersecurity
- Established **three Centres of Excellence** during her academic leadership, fostering innovation ecosystems
- Licensed Indian Patent Agent (No. 5887) and Certified Canadian Patent Administrator by **the Intellectual Property Institute of Canada**
- Secured **over ₹15 crores** in funding for research, innovation, and startup incubation projects
- Empaneled as an **IP Facilitator under the Startup India Scheme (SIIP)** to support early-stage ventures
- Regular speaker and co-panelist at national forums including **TiECON, ASSOCHAM, and PHDCCI**
- Former **Director of Research & Innovation at CGC Landran** and **Director at ACIC RISE Association,** supported by NITI Aayog

At the intersection of policy, education, and intellectual property, Dr. Ruchi Singla is building a more innovation-ready India.

CHAPTER 1:
PATENT CASE STUDIES

Biswanath Prasad Radhey Shyam v. Hindustan Metal Industries

Name of Court	Supreme Court of India
Order Dated	Dec 13, 1978
Appellant	Biswanath Prasad Radhey Shyam
Defendant	Hindustan Metal Industries
Section Covered	Sections 2(1)(j), 2(1) (ja), 64 of The Indian Patent Act, 1970
Main Jurisprudence	Inventive Step, Novelty, Patentability criteria The case lays down key tests / guidelines for inventive step / non-obviousness in Indian patent law. It emphasizes that an "improvement" on known technology must itself involve an inventive step and not be a mere workshop improvement; the test of obviousness must be strict and objective.

Issue:

1. Whether the claimed method / device was novel and not known or used publicly before the priority date.
2. Whether the claimed method / device involved an inventive step (i.e. was not obvious to a person skilled in the art).
3. Whether the claim was merely a workshop improvement of previously known methods or involved true innovation. Whether a combination of known elements (if claimed) is patentable if the result is new, better or cheaper.

Judgement:

Biswanath Prasad Radhey Shyam v. Hindustan Metal Industries is one of the foundational judgments in Indian patent jurisprudence, especially on the doctrine of inventive step / non-obviousness (under the older 1911 Act, but still of high relevance in the 1970 Act jurisprudence).

In this case, the appellant claimed an improved method / device in manufacturing utensils (improving on known methods that had been used publicly). The defendant challenged validity on grounds that the claimed method was already publicly known (negating novelty / subject-matter) and that even the improvement (if valid) lacked an inventive step, being a mere workshop refinement.

The Supreme Court emphasized the following points:

1. A patentable "improvement" must itself satisfy the test of invention; mere modifications or lab refinements are not enough.
2. If an invention is a combination of known elements, it must produce a new, useful or more efficient result to pass muster.
3. The "obviousness" test must be strict, objective, and without hindsight. The Court adopted the "competent craftsman" hypothetical test: Put the prior art in the hands of a skilled person (without the invention) and ask — would he say, "this gives me what I want"?
4. The inventive step must involve exercise of ingenuity and not simply routine skill or mechanical substitution.

Because the Court found that the patentee had not demonstrated that the claimed invention was non-obvious (nor sufficiently removed from prior art), the patent was revoked.

Novartis AG vs Union of India

Name of Court	Supreme Court of India
Order Dated	Apr 1, 2013
Appellant	Novartis AG
Defendant	Union of India, Cancer Patient Aid Association and Indian Generic Drug Manufacturers
Section Covered	Section 3(d) of The Indian Patent Act, 1970
Main Jurisprudence	Pharmaceutical Patentability, Evergreening, Efficacy Requirement The case establishes that under Section 3(d), a new form of a known substance is patentable only if it shows enhanced therapeutic efficacy. Minor modifications or improvements without real therapeutic benefit cannot be patented, preventing "evergreening." Patent claims must also be supported by the specification and balanced with public interest.

Issue:

1. Whether the beta crystalline form of imatinib mesylate (Glivec) constitutes a patentable invention under Section 3(d) of the Indian Patents Act, 1970.
2. Whether the new crystalline form demonstrates enhanced therapeutic efficacy over the known substance, as required by law.
3. Whether improvements in physical properties such as bioavailability, stability, or solubility are sufficient to meet the statutory requirement of invention.
4. Whether granting a patent for this modification would amount to evergreening, allowing extension of monopoly rights over an existing drug.

Judgement:

Novartis AG, a multinational pharmaceutical company, applied for a patent in India for the beta crystalline form of imatinib mesylate, a drug marketed as Glivec, used for treating chronic myeloid leukemia and other cancers. The Indian Patent Office rejected the application on the grounds that the substance did not meet the requirements of Section 3(d) of the Patents Act, which prohibits patenting of new forms of known substances unless they demonstrate enhanced therapeutic efficacy.

The Supreme Court emphasized the following points:

1. The Supreme Court held that the beta crystalline form of imatinib mesylate did not satisfy the requirements of Section 3(d), as it failed to demonstrate enhanced therapeutic efficacy over the known substance.
2. Improvements in physical properties such as solubility, stability, or bioavailability alone are insufficient to qualify as an invention. Only a demonstrable therapeutic advantage satisfies the statutory requirement.
3. The Court emphasized that Section 3(d) is designed to prevent evergreening, which occurs when minor modifications of existing drugs are used to unjustifiably extend patent monopolies.
4. The decision reinforced the principle that pharmaceutical patents must balance incentivizing genuine innovation with ensuring affordable access to medicines for the public.
5. The patent application by Novartis was therefore rejected, upholding the prior decision of the Indian Patent Office.

F. Hoffmann-La Roche Ltd vs Cipla Ltd

Name of Court	Delhi High Court
Order Dated	Apr 24, 2009
Appellant	F. Hoffmann-La Roche Ltd
Defendant	Cipla Ltd
Section Covered	Sections 104A, 108 of The Indian Patent Act, 1970
Main Jurisprudence	Patent Infringement, Public Health vs Patent Rights, Injunctions This case addresses patent infringement and the balance between patent rights and public health. It clarifies that while patent holders can enforce their rights, courts must consider affordable access to essential medicines before granting injunctions. The judgment under Sections 104A and 108 highlights that protection of intellectual property should not override public interest, making it a key precedent in pharmaceutical patent law in India.

Issue:

1. Whether Roche's patent for Erlotinib Hydrochloride is legally valid in India.
2. Whether Cipla's generic drug, Erlocip, violates Roche's patent rights.
3. Whether Roche is entitled to a court order (injunction) to stop Cipla from selling Erlocip.
4. How to balance patent protection with the need for affordable access to life-saving medicines for the public.

Judgement:

F. Hoffmann-La Roche Ltd. (Roche), a Swiss multinational healthcare company, developed Erlotinib Hydrochloride, marketed as Tarceva, for the treatment of non-small cell lung cancer. Roche was granted Indian Patent No. 196774 for Erlotinib Hydrochloride in 2007.

In 2008, Cipla Ltd., an Indian pharmaceutical company, announced its intention to market a generic version of Erlotinib Hydrochloride under the name Erlocip. Roche filed a suit against Cipla for patent infringement, seeking an injunction to prevent the sale of the generic drug.

The Delhi High Court emphasized the following points:
1. The Delhi High Court upheld the validity of Roche's Indian Patent No. 196774 for Erlotinib Hydrochloride.
2. The Court found that Cipla's generic version, Erlocip, infringed Roche's patent. Despite the infringement, the Court declined to grant an injunction, emphasizing the public interest in affordable access to life-saving medication.
3. Cipla was ordered to pay Roche damages and was required to maintain accounts of sales for the duration of infringement. Cipla was ultimately made to pay Rs. 5,00,000/- in damages.

Enercon (India) Ltd vs Aloys Wobben

Name of Court	Supreme Court of India
Order Dated	Nov 2, 2014
Appellant	Aloys Wobben
Defendant	Enercon (India) Ltd
Section Covered	Sections 25 and 64 of The Indian Patent Act, 1970
Main Jurisprudence	Opposition vs Revocation, Jurisdiction, Procedural Law This case explains the difference between opposition and revocation proceedings under the Patents Act. The Supreme Court held that both remedies cannot be used together for the same patent. Once a person chooses to oppose a patent under Section 25, they cannot later file a revocation petition under Section 64 on the same grounds. The judgment highlights the need for procedural consistency and defines clear jurisdictional boundaries between these two processes.

Issue:

1. Whether a person can file a revocation petition under Section 64 while an opposition proceeding under Section 25 is still pending.
2. Whether both proceedings can co-exist for the same patent and subject matter.
3. What is the proper jurisdiction and procedural sequence to challenge the validity of a patent.
4. Whether a decision in opposition proceedings bars a subsequent revocation petition.

Judgement:

Aloys Wobben, a German inventor and owner of several wind turbine patents, and Enercon (India) Ltd., his Indian joint venture partner, became involved in a dispute over the ownership and validity of various patents registered in India. Enercon (India) Ltd. Filed revocation petitions before the IPAB and counter claims in the high court, challenging the validity of Dr. Wobben's patents. The key question was whether both proceedings—opposition and revocation—could be pursued simultaneously for the same patent, and which forum had the proper jurisdiction to decide the matter.

The Supreme Court clarified the procedural relationship between opposition and revocation under the Patents Act. It held that a party cannot pursue both remedies simultaneously for the same patent, as doing so could lead to duplicative proceedings and conflicting outcomes. The Court emphasized that the Act provides a sequential process: opposition is filed first to challenge a patent before grant, and revocation is available later to annul a patent once it has been granted.

The Supreme Court emphasized the following points:
1. The Supreme Court held that a person who has already chosen the route of opposition cannot file a separate revocation petition for the same patent.
2. The Court clarified that both proceedings—opposition and revocation—cannot run concurrently for the same patent.
3. It was observed that revocation under Section 64 is available only after the patent is granted and the opposition process has concluded.
4. The judgment reinforced that procedural consistency must be maintained to avoid conflicting outcomes from different forums.

Merck Sharp & Dohme Corp vs Glenmark Pharmaceuticals Ltd

Name of Court	Delhi High Court
Order Dated	Mar 20, 2015
Appellant	Merck Sharp & Dohme Corp
Defendant	Glenmark Pharmaceuticals Ltd
Section Covered	Sections 48, 104 of The Indian Patent Act, 1970
Main Jurisprudence	Patentee Validity, Infringement Scope The case clarifies the extent of a patentee's exclusive rights under Indian law and the scope of patent infringement in pharmaceutical products. The Delhi High Court emphasized that once a patent is validly granted, the patentee has the sole right to make, use, sell, or distribute the invention. Any unauthorized manufacture or sale that falls within the patent claims constitutes infringement. The ruling reinforces that patent rights must be strictly protected to encourage innovation and maintain the integrity of the patent system.

Issue:

1. Whether MSD's patent claims are valid and enforceable under Indian law.
2. Whether Glenmark's products infringe MSD's patents.
3. Whether MSD was entitled to an injunction against Glenmark.
4. How to interpret the extent of patentee rights under Sections 48 and 104 of the Patents Act.

Judgement:

Merck Sharp & Dohme Corp (MSD), a pharmaceutical company, held patents covering certain active pharmaceutical ingredients (APIs) for specific medicines. Glenmark Pharmaceuticals Ltd. launched generic versions of drugs allegedly covered by MSD's patents. MSD filed a suit claiming patent infringement and sought injunctive relief to prevent Glenmark from manufacturing, marketing, and selling the generic drugs. The Court examined the scope of patent protection, the rights of the patentee, and the extent to which infringement could be established.

The Delhi High Court held that MSD's patents were valid and enforceable, and Glenmark's generic products infringed these patents. The Court observed that the scope of a patent is defined by its claims, and any product falling within this scope constitutes infringement. Accordingly, the Court granted an injunction in favor of MSD, restraining Glenmark from manufacturing or selling the infringing drugs.

The Supreme Court emphasized the following points:
1. The Court upheld the validity of MSD's patents for the relevant pharmaceutical compounds.
2. Glenmark's generic drugs were found to fall within the scope of MSD's patent claims, constituting infringement.
3. MSD was entitled to injunctive relief to prevent further manufacture and sale of the infringing products.
4. The Court reaffirmed that Sections 48 and 104 protect the patentee's exclusive rights and ensure effective legal remedies against infringement.

CHAPTER 2:
DESIGN CASE STUDIES

Bharat Glass Tube Limited vs. Gopal Glass Works Limited

Name of Court	Supreme Court of India
Case No	Civil Appeal No. 3185 of 2008 (Arising out of S.L.P.(C) No.16321 of 2006)
Order Dated	May 1, 2008
Section Covered	Sections 2(d), 4
Main Jurisprudence	Originality, Industrial Applicability, Design Novelty

Issue:

Whether the novelty and originality of the registered glass sheet design were destroyed by the prior existence of the pattern on the manufacturing roller and its alleged publication abroad.

Judgement:

The Supreme Court of India's judgment in Bharat Glass Tube Limited vs. Gopal Glass Works Limited (dated May 1, 2008) is a seminal ruling on the interpretation of "new or original" under the Designs Act, 2000. The main dispute revolved around an application filed by Bharat Glass Tube Limited seeking the cancellation of Gopal Glass Works Limited's registered design (No. 190336) for a diamond-patterned glass sheet. The challenger argued that the design lacked novelty and originality because the pattern existed on the engraved rollers used for manufacturing the glass (supplied by a German company) and was allegedly disclosed on a UK Patent Office website prior to the Indian registration date.

The Supreme Court ultimately dismissed the appeal and upheld the registration, thereby clarifying a crucial aspect of design law: the Finished Product Test. The Court ruled that the novelty and originality of a design must be judged solely by its application to the finished article that appeals to the eye (Section 2(d) of the Act), not by the existence of the pattern on the mere tooling or mode of construction. The Court held that the appellant (challenger) had failed to discharge the burden of proof required under Section 19 to show that the specific design, as reproduced on a glass sheet, had ever been previously manufactured, sold, or published anywhere in the world. By maintaining this distinction between the pattern on the roller (a tool) and the visual appeal on the article (the glass sheet), the Supreme Court reinforced the protection mechanism for industrial designs in India.

Carlsberg Breweries A/S vs. Som Distilleries And Breweries Ltd.

Name of Court	High Court of Delhi (Special 5-Judge Bench)
Case No	C.S. (COMM) 690 of 2018, I.A. No. 11166 of 2018 (Reference)
Order Dated	Dec 14, 2018
Section Covered	Sections 19, 22
Main Jurisprudence	Dual Protection: Design vs Trademark, Deceptive Similarity

Issue:

Whether a composite suit combining two distinct causes of action—one for Infringement of a Registered Design (statutory right) and the other for Passing Off (common law right)—against the same defendant is legally maintainable.

Judgement:

The case of Carlsberg Breweries A/S vs. Som Distilleries And Breweries Ltd. was a landmark judgment delivered by a Special 5-Judge Bench of the Delhi High Court on December 14, 2018, addressing a critical procedural issue in intellectual property (IP) litigation: the maintainability of a composite suit. The suit sought relief for two distinct claims—Infringement of a Registered Design (a statutory right) and Passing Off (a common law right related to trade dress and goodwill) in relation to beer bottles.

The Court overruled earlier Full Bench decision in Mohan Lal v. Sona Paint, which had prohibited the joinder of these claims. The judgment's core reasoning, based on a purposive interpretation of Order II Rule 3 of the Code of Civil Procedure (CPC), was that since the basic facts and the evidence required for both causes of action arose from the same transaction of sale (the defendant's activities), the claims involved substantial common questions of fact and law. Therefore, joining them in a single suit was permissible and necessary to achieve judicial efficiency, prevent the multiplicity of proceedings, and allow the court a comprehensive view of the entire dispute.

M/S. Cello Household Products vs. M/S. Modware India

Name of Court	High Court of Judicature at Bombay
Case No	Notice of Motion (L) No. 209 of 2017 in Suit (L) No. 48 of 2017
Order Dated	Mar 30, 2017
Section Covered	Sections 2(d), 4
Main Jurisprudence	Functional Designs Not Registrable, Visual Appeal Requirement

Issue:

Whether the defendant's water bottle, sold under the name 'KUDOZ', was a fraudulent or obvious imitation of the plaintiff's registered design for its 'PURO' water bottle, and whether the defendant was also liable for passing off due to the highly similar trade dress and packaging.

Judgement:

The Bombay High Court's 2017 ruling in M/S. Cello Household Products vs. M/S. Modware India is a landmark decision affirming the robust protection available to a registered design proprietor, granting an interim injunction against both design infringement and passing off. The case is crucial for two main reasons. First, in determining infringement under Section 22 of the Designs Act, 2000, the Court established a high bar, noting that the defendant's 'KUDOZ' bottle was a "fraudulent or obvious imitation" and was "indistinguishable in every single respect" from the plaintiff's registered 'PURO' bottle design when viewed through the "eye of the common customer." This emphasized that the ultimate visual impression is paramount, irrespective of the non-registrable elements like the exact two-tone color. Second, the Court definitively rejected the defendant's plea of "mosaicing," which sought to invalidate the design by arguing it was a mere combination of prior art elements. The Court held that for a design to be valid and new or original under Section 4, it is the aesthetic result of the combination of known features, viewed as an inseparable whole, that matters, not the novelty of each individual component. Finally, the judgment powerfully illustrates the principle of concurrent IP rights, granting relief for passing off based on the defendant's copying of the entire trade dress and packaging, which was calculated to deceive consumers as to the source of the product, thereby allowing the common law right to protect the commercial goodwill associated with the product's overall get-up alongside the statutory design right.

Dabur India Limited vs. Mr. Rajesh Kumar And Ors.

Name of Court	High Court of Delhi
Case No	CS (OS) No. 183/2007 (I.A. No. 1881/2007)
Order Dated	Mar 20, 2008
Section Covered	Section 22
Main Jurisprudence	Piracy of Design, Infringement, Deceptive Similarity

Issue:

Whether the plaintiff (Dabur India Ltd.) established a strong prima facie case for infringement of its registered bottle design and trademark to warrant the grant of an interim injunction against the defendants.

Judgement:

The judgment in Dabur India Limited vs. Mr. Rajesh Kumar And Ors. (2008) is an essential ruling for students learning design law, as it demonstrates that an interlocutory injunction in an infringement suit is heavily reliant on the validity and honesty of the plaintiff's case. The Delhi High Court denied the interim injunction because Dabur failed to establish a strong prima facie case for either design or trademark infringement.

In a crucial move, the court performed a detailed examination of the design's validity, essentially a de facto cancellation analysis under Section 4 of the Designs Act, 2000, finding that the registered bottle design was not genuinely new or original but merely a "common bottle" or "trade variant" widely used in the industry. This confirmed the principle that minor variations on common shapes or features that are largely functional are insufficient to justify a legal monopoly. Furthermore, the plaintiff's case was severely undermined by a false averment (a dishonest or inaccurate statement) regarding trademark embossing on the seized products, leading the court to stress that parties seeking equitable relief, such as an injunction, must approach the court with absolute factual accuracy and clean hands. This case powerfully teaches that judicial relief under Section 22 is conditional not just on the similarity of the products, but on the initial legal strength and integrity of the registered design itself.

Whirlpool of India Ltd. vs. Videocon Industries Ltd.

Name of Court	High Court of Judicature at Bombay (Single Judge and Division Bench)
Case No	Suit (L) No. 1675 of 2012 (Primary Suit) / Notice of Motion (L) No. 1955 of 2012 / Appeal Lodging No. 554 of 2012
Order Dated	July 25, 2012 (Ad-Interim Injunction by Single Judge) / August 13, 2012 (Division Bench Appeal Dismissal)
Section Covered	Sections 2(d)
Main Jurisprudence	Novelty, Aesthetic Appeal, Design Registration Criteria

Issue:

1. Whether Videocon's "Pebble" washing machine design constituted a fraudulent or obvious imitation of Whirlpool's registered design.
2. Whether a suit for design infringement under S. 22 is maintainable against a subsequent registered proprietor of the impugned design.
3. Whether Videocon was also liable for the common law tort of passing off.

Judgement:

The Bombay High Court's ruling in Whirlpool of India Ltd. vs. Videocon Industries Ltd. (2012) is a landmark intellectual property decision that firmly established the strength of a registered design owner's rights, granting an interim injunction against both design infringement and passing off concerning Whirlpool's distinctive semi-automatic washing machine design. The court applied the key test for piracy under Section 22 of the Designs Act, 2000, known as the "judged solely by the eye" test, and found that Videocon's "Pebble" machine was a "fraudulent or obvious imitation" and a "slavish copy" of the overall aesthetic and unique shape of the Whirlpool machine, concluding that minor differences in color or ornamentation were immaterial.

Crucially, the court rejected Videocon's attempt to invalidate the design based on lack of novelty (Section 4), affirming that novelty is judged by the overall visual impression of the unique combination of features, even if the individual components were known in prior art. Furthermore, the judgment provided a vital clarification on the scope of Section 22, holding that a suit for infringement is maintainable against "any person," explicitly including a subsequent registered proprietor of a similar design, thereby prioritizing the rights of the original and valid prior registrant. Finally, the Court upheld the concurrent claim of passing off, recognizing the substantial goodwill acquired by Whirlpool's design and finding that the copying was calculated to deceive the less-discerning target consumer into believing Videocon's product was associated with Whirlpool's established reputation.

CHAPTER 3:
INTERNATIONAL TREATIES & AGREEMENTS

Several significant international treaties concerning intellectual property have India as one of their member countries

India is a member of several international treaties and conventions related to Intellectual Property (IP), administered mainly by the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). These treaties aim to harmonize IP protection, promote cooperation, and facilitate international recognition of rights.

Multilateral IP Treaties under WIPO

Paris Convention for the Protection of Industrial Property (Adopted: Paris –March 20, 1883 /Amended: September 28, 1979)

India: Joined in 1998

Contracting Parties/Signatories Paris Convention (Total Members: 181)

The Paris Convention, adopted in 1883, applies to industrial property in the widest sense, including patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications and the repression of unfair competition. This international agreement was the first major step taken to help creators ensure that their intellectual works were protected in other countries.

The Paris Convention applies to industrial property in the widest sense, including patents, trademarks, industrial designs, utility models (a kind of "small-scale patent" provided for by the laws of some countries), service marks, trade names (designations under which an industrial or commercial activity is carried out), geographical indications (indications of source and appellations of origin) and the repression of unfair competition.

India, being a part of Paris Convention, every Indian citizen is entitled to:

National treatment: Under the provisions on national treatment, the Convention provides that, as regards the protection of industrial property, each Contracting State must grant the same protection to nationals of other Contracting States that it grants to its own nationals. Nationals of non-Contracting States are also entitled to national treatment under the Convention if they are domiciled or have a real and effective industrial or commercial establishment in a Contracting State.

Right of Priority: The Convention provides for the right of priority in the case of patents (and utility models where they exist), marks and industrial designs. This right means that, on the basis of a regular first application filed in one of the Contracting States, the applicant may, within a certain period of time (12 months for patents and utility models; 6 months for industrial designs and marks), apply for protection in any of the other Contracting States. These subsequent applications will be regarded as if they had been filed on the same day as the first application. In other words, they will have priority (hence the expression "right of priority") over applications filed by others during the said period of time for the same invention, utility model, mark or industrial design.

Patent Cooperation Treaty (PCT), 1970

India: Acceded in 1998

Contracting Parties/Signatories Patent Cooperation Treaty (Total Members: 158)

The Patent Cooperation Treaty (PCT) makes it possible to seek patent protection for an invention simultaneously in each of a large number of countries by filing an "international" patent application. Such an application may be filed by anyone who is a national or resident of a PCT Contracting State. It may generally be filed with the national patent office of the Contracting State of which the applicant is a national or resident or, at the applicant's option, with the International Bureau of WIPO in Geneva.
It allows filing of a single international patent application effective in multiple countries.

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977)

India: Acceded in 2001

Contracting Parties/Signatories Patent Cooperation Treaty (Total Members: 91)
International Depository Authority (IDA)till 2024: 51

Adopted in 1977, the Budapest Treaty concerns a specific topic in the international patent process: microorganisms. All states party to the Treaty are obliged to recognize microorganisms deposited as a part of the patent procedure, irrespective of where the depository authority is located. In practice this means that the requirement to submit microorganisms to each and every national authority in which patent protection is sought no longer exists.

Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (June 15, 1957)

India deposited its instrument of accession on: June 7, 2019
The treaties entered into force on: September 7, 2019.

Contracting Parties/Signatories Nice Agreement (Total Members: 95)

The Nice Classification (NCL), established by the Nice Agreement (1957), is an international classification of goods and services applied for the registration of marks. A new edition is published every five years and, since 2013, a new version of each edition is published annually.

Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (June 12, 1973)

India deposited its instrument of accession on: June 7, 2019
The treaties entered into force on: September 7, 2019.

Contracting Parties/Signatories Vienna Agreement (Total Members: 40)

Provides an international system for classifying logos and figurative elements of trademarks. The Vienna Agreement establishes a classification for marks which consist of or contain figurative elements. The competent offices of the Contracting States must indicate in the official documents and publications relating to registrations and renewals of marks the appropriate symbols of the Classification.

Locarno Agreement Establishing an International Classification for Industrial Designs (October 8, 1968)

India deposited its instrument of accession on: June 7, 2019
The treaties entered into force on: September 7, 2019.
Contracting Parties/Signatories Locarno Agreement (Total Members: 63)

Provides uniform classification of industrial designs. June 7, 2019 was a breakthrough moment for India as it finally formally acceded to the Locarno Agreement establishing an International Classification for Industrial Designs becoming the 57th member of the Agreement. In furtherance to this, the Design Rules, 2001 were amended as on 25 January 2021 through the introduction of Design (Amendment) Rules, 2021.

Berne Convention for the Protection of Literary and Artistic Works (1886)

India: Member since 1928 (British India), continued post-independence
Contracting Parties/Signatories Berne Convention (Total Members: 182)

To ensure that creators (authors, artists, musicians, etc.) from one member country enjoy the same copyright protection in all other member countries as nationals of those countries.

WIPO Copyright Treaty (WCT), 1996

India: Acceded in 2018
Contracting Parties/Signatories (Total Members: 182)

It ensures adequate protection of authors' works (like literary and artistic works) in digital environments, including online use and distribution. The WIPO Copyright Treaty (WCT) has 115 contracting parties as of August 2023.

WIPO Performances and Phonograms Treaty (WPPT), 1996

India: Acceded in 2018
Contracting Parties/Signatories WIPO Performances and Phonograms Treaty (Total Members: 114)

To update and strengthen the protection of performers (singers, musicians, actors, etc.) and producers of phonograms (sound recordings) in the digital environment — complementing the Berne Convention and WCT.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1995

India: Member since 1995
Contracting Parties/Signatories (Total Members: 166)

Sets minimum standards for IP protection and enforcement across all WTO member countries. Covers patents, trademarks, copyrights, industrial designs, trade secrets, and geographical indications.

Madrid Agreement Concerning the International Registration of Marks (1891) and Madrid Protocol (1989)

India: Joined the Madrid Protocol in 2013
Contracting Parties/Signatories Madrid Protocol : 115)

Allows international registration of trademarks through a single application. The Madrid System for the International Registration of Marks is governed by the Madrid Agreement, concluded in 1891, and the Protocol relating to that Agreement, concluded in 1989. The system makes it possible to protect a mark in a large number of countries by obtaining an international registration that has effect in each of the designated Contracting Parties.

Nairobi Treaty on the Protection of the Olympic Symbol (1981)

India joined on: June 30, 1983
Contracting Parties/Signatories Nairobi Treaty (Total Members: 56)

All States party to the Nairobi Treaty are under the obligation to protect the Olympic symbol – five interlaced rings – against use for commercial purposes (in advertisements, on goods, as a mark, etc.) without the authorization of the International Olympic Committee. An important effect of the Treaty is that, if the International Olympic Committee grants authorization to use the Olympic symbol in a State party to the Treaty, the National Olympic Committee of that State is entitled to a part in any revenue the International Olympic Committee obtains for granting the said authorization.

Strasbourg Agreement Concerning the International Patent Classification (1971)

India deposited its instrument of accession to the Strasbourg Agreement on: July 7, 2025
The Agreement will enter into force with respect to India on: July 7, 2026 (as per WIPO's official notification)
Contracting Parties/Signatories Strasbourg Agreement (Total Members: 67)

Upon its entry into force, India will formally become a Contracting Party to the Strasbourg Agreement, thereby aligning its patent classification practices more closely with international standards.

The Agreement – commonly referred to as the Strasbourg Agreement – establishes the International Patent Classification (IPC) which divides technology into eight sections with approximately 80,000 subdivisions. Each subdivision is denoted by a symbol consisting of Arabic numerals and letters of the Latin alphabet. The appropriate IPC symbols are indicated on patent documents (published patent applications and granted patents), of which more than 3 million were issued each year in the last five years. The IPC symbols are allotted by the national or regional industrial property office that publishes the patent document. For PCT applications, IPC symbols are allotted by the International Searching Authority (ISA). The Classification is indispensable for the retrieval of patent documents in the search for "prior art". Such retrieval is needed by patent-issuing authorities, potential inventors, research and development units and others concerned with the application or development of technology.

Hague System – The International Design System(1925)

India is not a part of Hague system(This is added in the chapter as it is asked in the PAE)
Contracting Parties/Signatories Hague Agreement (Total Members: 82)

The Hague System for the International Registration of Industrial Designs provides a practical business solution for registering up to 100 designs in 99 countries by filing a single international application.

Link to 55 treaties of which India is a part of:
https://www.wipo.int/wipolex/en/members/profile/IN?
collection=laws&collection=treaties&collection=judgments

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