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INDIAN IP UPDATE · ISSUE 02

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Five developments for businesses and IP owners.

Indian courts dealt with a wide range of intellectual property issues in October 2026. The five developments below carry implications beyond the facts of the individual cases, from generative AI and personality rights to the dividing line between arbitrable commercial disputes and non-arbitrable IP rights.

01

AI and Personality Rights

DELHI HIGH COURT

In *Kriti Sanon v. BBE Marketing Inc. & Ors.* (29 October 2026), the Delhi High Court emphasised that "personality rights" should not be treated as a single cause of action. The expression can cover distinct claims based on publicity rights, privacy, passing off, defamation and statutory rights, each with its own requirements and limits.

The distinction between publicity and privacy matters. Publicity concerns the commercially exploitable value of identity and can therefore be licensed. Privacy protects different personal interests. The Court also addressed synthetic personas, impersonation and obscene deepfakes, while preserving legitimate news reporting, criticism, satire, parody and genuine fan expression.

In *Vijay Sai Deverakonda v. Ashok Kumar John Doe* (8 October 2026), personality-right protection did not by itself give the plaintiff passing-off exclusivity in the expression ROWDY. That required evidence of acquired distinctiveness and secondary meaning.

> WHY IT MATTERS
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> Consent to use a photograph does not answer every legal question. For advertising and brand teams using generative AI, the key is identifying which attribute of a person is being used, for what purpose and under what authority.

02

Patent Examination

DELHI AND MADRAS HIGH COURTS

In *Glisten LLC v. Assistant Controller of Patents & Designs* (1 October 2026), the hearing notice had confined the inventive-step objection to claim 18. That claim was later withdrawn. The Controller nevertheless refused other claims on prior-art grounds. The Delhi High Court held that the remaining claims could not be refused on a ground that had not been carried into the hearing notice. The refusal was set aside and the application restored.

In *Alstom Transport Technologies & Anr. v. Controller of Patents and Designs* (16 October 2026), the Madras High Court set aside a refusal that cited six prior-art documents without explaining how they supported the objections on novelty, inventive step or patentability. Reconsideration was entrusted to another officer.

In *The North Face Apparel Corp v. Controller of Patents and Designs* (16 October 2026), the same Court rejected an approach that dissected the invention and mosaiced prior art with materially different objectives, and directed grant.

> WHY IT MATTERS
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> When reviewing an adverse order, compare the FER objections, the response filed, the hearing notice, the submissions at the hearing and the grounds actually relied on in the refusal.

03

Online Brand Fraud

DELHI HIGH COURT

In *The Indian Hotels Company Limited v. Royaltaj India Membership & Ors.* (28 October 2026), the defendants were alleged to have used the TAJ and VIVANTA marks and hotel photographs while soliciting purported hotel memberships.

The Delhi High Court granted interim measures going well beyond a conventional injunction against use of the mark. They included disabling the domain and hosting infrastructure, freezing an identified bank account, blocking the mobile and WhatsApp accounts involved, and requiring intermediaries to disclose KYC or subscriber information.

In *Reliance Industries Limited v. Rahul Meena & Ors.* (7 October 2026), fraudulent lottery websites using JIO-formative marks were restrained under a rogue-website framework. The Court looked at the qualitative character and predominant purpose of the websites rather than the number of infringing items on them.

> WHY IT MATTERS
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> Where a brand is the instrument of online fraud, enforcement may need to reach several layers at once: the domain and registrar, the hosting provider, social media and messaging accounts, telephone numbers, payment channels and bank accounts, KYC data, and advertising or marketplace infrastructure. Evidence gathering should start wider than a screenshot of the infringing mark.

04

Healthcare Trademarks

MADRAS AND BOMBAY HIGH COURTS

In *Dr. Reddy's Laboratories Limited v. Registrar of Trade Marks & Anr.* (26 October 2026), the marks NISE and NICE were phonetically similar. The Madras High Court nevertheless found the goods and markets materially different: pharmaceutical medicines on one side and specialised neonatal equipment on the other. Their functions, purchasers, procurement processes and trade channels differed, and sophisticated institutional purchasers reduced the likelihood of association.

The Court also rejected the proposition that reputation in pharmaceutical products automatically established protection across dissimilar goods under Section 11(2). The additional statutory requirements still had to be made out.

This can be contrasted with *Glaxo Group Limited v. Shreya Life Sciences Private Limited* (28 October 2026), where the Bombay High Court ordered rectification of LEFOXIN BIOX in light of the earlier LANOXIN mark, and held that applying a mark in India to goods manufactured for export was use in India under Section 56(1).

> WHY IT MATTERS
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> On clearance, opposition and enforcement risk in healthcare, look past phonetics. Ask whether the products are actually related, who makes the purchasing decision, whether the purchase is retail, prescription-based or institutional, and whether the trade channels overlap.

05

IP and Arbitration

DELHI AND MADRAS HIGH COURTS

In *Utracon Corporation Pte Ltd v. Ucon PT Structural System Private Limited & Ors.* (28 October 2026), the Delhi High Court distinguished trademark grant, registration and rectification, which concern rights in rem, from disputes between identified parties over continued use of licensed marks, which may concern subordinate rights in personam capable of arbitration. The Court also held that the jurisdiction provisions in the Trade Marks Act and the Copyright Act did not by themselves prohibit arbitration.

The Madras High Court considered a related issue in *R. Sathyamurthy v. R. Raghavan (Deceased) & Ors.* (28 October 2026) The arbitral tribunal was dealing with the DINAMALAR name, trademark and goodwill as assets of a partnership following dissolution. It was not deciding registration, validity, infringement or passing off against third parties. Determining the partners' inter se rights in those business assets was therefore capable of arbitration.

> WHY IT MATTERS
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> A commercial dispute involving a trademark is not necessarily non-arbitrable as a whole. For licences, joint ventures, partnerships, franchises and business-separation agreements, the better question is what right the tribunal is actually being asked to determine. That distinction should also inform how arbitration clauses are drafted in IP-heavy agreements.

Looking ahead

A common thread runs through these October decisions. Courts are looking beyond formal labels to the commercial and technological setting in which IP rights operate. A personality-rights claim must identify the particular legal right involved. A patent refusal must disclose and reason through the actual objection. Online infringement may require remedies directed at the infrastructure supporting the fraud. Trademark confusion depends on the actual market in which the goods are bought. And an IP dispute may or may not be arbitrable, depending on the nature of the right being adjudicated.

Also on our radar

Copyright chain of title

Shakti Sagar v. The Delhi Law House (7 October 2026): a remote successor claiming copyright in old publications had to establish how copyright first passed from the named authors. Later publisher certificates and testamentary transfers could not repair a missing root assignment.

Design validity and prior art

Nayasa Superplast v. Shree Ji Industries (29 October 2026): generic historical products, uncertain internet material and prior registrations requiring detailed visual comparison did not establish a sufficiently credible validity challenge to displace interim design protection.

Trade mark oppositions

Kumar Equipments v. Registrar of Trademark (27 October 2026): service of a counterstatement on the recorded attorney triggered the mandatory Rule 45 period. A failure of communication between attorney and client did not permit abandonment to be reversed by review.

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