



Much Ado About Nothing: Court resolves issue over a fictional acronym

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“Any resemblance to reality is purely coincidental”, a statement often seen as a disclaimer before the beginning of feature films. Across languages, the words may vary, but the essence remains the same. This necessarily serves the purpose of avoiding legal disputes from an entity that may assume that the fictitious representation violates its rights. The disclaimer can be held invalid if the entity is successful in proving its claim. For this to become true, there must be a strong case.

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In the case of Dr Reddy's Laboratories Limited vs Eros International Media Limited and Another, the Delhi High Court dealt with the claim of trademark disparagement through an acronym 'DRL' depicted in an Indian feature film Haathi Mere Saathi.

The plaintiff, a multinational pharmaceutical company, engaged in the business of manufacturing, marketing, and distribution of pharmaceutical, nutritional, and cosmetic products, approached the court with an appeal to prevent the release of the movie, alleging that the use of the plaintiff's registered mark 'DRL' interferes with their exclusive intellectual property rights. The mark was registered in 2007 in class 5 (pharmaceutical preparations) as an acronym for the plaintiff's full name (Dr Reddy's Laboratory).

The case was filed against Eros International Media Limited, a leading global motion movie production and distribution company that is the producer of the movie, and Mr Prabhu Solomon, the director of the movie.

In February 2020, the plaintiff company came to know through the trailer that the Hindi-language movie depicts a villainous corporation by the name of 'DRL' who wants to build a 'DRL Township' by destroying an elephant corridor and habitat from the area. Aggrieved, the plaintiff believed this

from the movie. The defendants responded by saying that the mark 'DRL' refers to a fictional corporate entity named 'Drishti Refineries Limited'. Also, the movie's release was postponed for a year, and another trailer was released in March 2021. The plaintiff moved the court to stall the release to prevent the alleged infringement. They stated that the release of the movie would impact its sales, share price, reputation, internal environment, business, etc., as people would assume "that the plaintiff must have been part of encroachment of a restricted area, for which reason the producers have chosen the name 'DRL Township' for its movie."

Further, the plaintiff submitted that the defendant should use the full name 'Drishti Refineries Limited' in the movie instead of the acronym 'DRL' to avoid confusion.

The defendant stated that the name 'DRL' or 'DRL Township' used in the movie does not signify the goods and services for which the plaintiff had it registered. The plaintiff had no right to claim exclusive ownership over the mark 'DRL' since plenty of other registered marks exist in different classes. Supported with precedent, the defendant reiterated that the plaintiff could not seek postponement in the movie's release because the claim is based on conjecture since the alphabets are used in a fictional work of art.

S. No.	Trademarks	Application/Registration No. and Status	Class	Owner/Proprietor
1.		2110751 Registered	39	DRL Logistics Private Limited
2.		3676384 Registered	9, 25, 2, 8, 41	Drone Racing League, Inc.
3.		3805949 Pending	5	Sah Agrovvet (OPC) Pvt. Ltd.
4.		3534721 Registered	7	Surinder Kumar Trading as Data Ram and Sons

to be derogatory as it portrays the registered trademark 'DRL' in a bad light. The deliberate negative depiction and the unauthorised use of the mark 'DRL' would adversely affect the plaintiff's longstanding reputation and prompt mistrust amongst the public.

The plaintiff had also sent a legal notice to the defendant in March 2020, per which it demanded the infringing scenes to be removed

Trademark 'DRL' registered in different classes (Source)

They also cited delay in the plaintiff's action as the suit was instituted just a week before the movie's scheduled release.

The defendant argued that the right to freedom of speech allows them to use the acronym/letters 'DRL' in creative fictional works. "The movie is not a documentary, but a feature film and does not relate or aver to pharmaceutical companies in the slightest." The plaintiff cannot claim monopoly over the English alphabets D, R, L. It was impractical to edit the movie at that juncture on short notice.

The verdict:

The court tackled the matter thoroughly. The main issues were:

1. What is the plaintiff's right over the acronym/ letters 'DRL'?
2. Whether the use of the name 'DRL' in the movie amounts to infringement of the plaintiff's registered trademark?
3. Whether the plaintiff delayed action?

To resolve the first issue, the court noted that the plaintiff did not submit evidence to show that the mark 'DRL' was being used in advertisements, invoices, packaging, etc., except for news articles where the acronym was preceded or followed by the full name of the plaintiff company. A reference was made to the judgment passed by the Supreme Court in the case of Corn Products Refining Co. Ltd. vs Shangrila Food Products Ltd., where it was held that it is not permissible to draw any inference as to use from the mere presence of the mark on the register. To sustain an action of infringement, it is imperative to exhibit continuous and sustained use of the mark, to demonstrate that it has acquired distinctiveness. Moreover, registration of a mark in one class does not give an unrestricted right in all the other classes. The plaintiff could not prove that the marks 'DRL' and 'Dr. Reddy's Laboratories' are not synonymous; hence, he does not have an absolute right over the acronym/letters 'DRL'.

When deciding whether an infringement has occurred, the court stated that the usage of 'DRL' in the film is not standalone but a composite term such as 'DRL - Drishti Refineries Ltd.' or 'DRL Group' or 'DRL Township'. In the movie, the stated entity dealt with setting up refinery plants, which was different from the plaintiff's line of work. The argument of the plaintiff that the evil portrayal of the name 'DRL' would malign its reputation was farfetched, baseless, and lacked material foundation. Since the trailer of the movie had been in the public domain for a year already, the plaintiff could not show any adverse impact on its business during this timeframe. The usage of the mark bore no resemblance to the plaintiff's mark or

business and would not confuse the minds of the public; hence, no infringement had occurred.

The plaintiff could not present a strong case in its favour. The balance of convenience lay in favour of the defendants. Therefore, the court ruled that the suit was devoid of merit and was dismissed accordingly.

Depiction of the name 'DRL' in the movie (Source)



Finally, the court noted that the plaintiff had caused a delay in acting against the defendant. It knew of the purported infringement since 2020 and yet did not act on it until a week before the movie's release. The plaintiff could not justify the delay, and the timing was highly suspect and belated. The court held that "this laxity would disentitle the plaintiff of the discretionary relief of injunction, which is based on equity". On the ground of delay, the plaintiff would be disentitled to the relief of injunction as sought for in the suit.

The court supported the defendants' contentions and arguments. It opined that the plaintiff could not invoke its proprietary rights over the mark 'DRL' in this instance. The mark that was used in the film did not bear any similarity to the business of the plaintiff. To ensure that, the defendants have put a disclaimer at the beginning of the movie to clarify the possibility of coincidental similarities and resemblances; in the following words, "all characters appearing in this work are fictitious. Any resemblance to real persons, living or dead, is purely coincidental."

Key takeaways:

Many unusual trademark infringement cases have been brought before courts over the years, yet this case is seasoned with several oddities. A plaintiff is claiming cross-class rights over an acronym depicted in a fictional work. The court reduced the mark to a mere three letters of the English alphabet, when arranged in a particular manner, this offended the plaintiff. The plaintiff also failed to establish an actual loss to the business, which is stated to be the main motivation behind the suit. The mark that was used in the movie did not make any impact on the plaintiff's business. The public at large did not relate both the marks with the business of the plaintiff as the fictional entity was in an entirely different line of work.

The three basic principles of injunction which can make or break a case are prima facie case, balance of convenience, and an irreparable injury. The plaintiff could not satisfy a single condition. Hence, on these grounds, the court favoured the defendant.

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