



## IP update

### The jurisdiction challenge for IP owners

In July 2015, the Hon'ble Supreme Court in *IPRS v. Sanjai Dalia*, settled the jurisdiction issue for copyright and Trademarks cases wherein the right owners invoke Section 62 of the Copyright Act 1957, and Section 134 of the Trade Marks Act 1999, to bring a suit before a Court in whose jurisdiction the Plaintiff "carries on business". Addressing the said mischief of corporate Plaintiffs, who were bringing infringement suits in far off places where they had subordinate offices but where the cause of action was absent, the Apex court clarified that in cases where the Plaintiff is residing or carrying on business etc. at a place where the cause of action, wholly or in part, has also arisen, then the Plaintiff has to file a suit at that place itself and the jurisdiction of all other places is ousted.

Subsequently, interpreting the Supreme Court decision, a division bench of the Delhi High Court in *Ultrahome Constructions v. Purushottam Kumar Chaubey* (Jan. 2016) essentially held that the Plaintiff could not bring infringement proceedings at a place where it has its registered office/principal place of carrying business, if it has a subordinate office at a place where the cause of action, wholly or in part, arose. The Delhi High Court further clarified the position of law in *Allied Blenders and Distilleries v. R. K. Distilleries*, (Jul. 2016) wherein it held that in case the cause of action is absent at the place of the Plaintiff's registered office and any of its subordinate offices, the Plaintiff may sue at either of the two places – the place having its registered/principal office or the place of accrual of cause of action, but not at any of its subordinate offices.

However, the Bombay High Court in *Manugraph v. Simraq Technologies Pvt Ltd & Ors* (Jun. 2016) held that under a 'pure' Section 62 or Section 143 invocation of jurisdiction, "Plaintiff can always file a suit in a court within the local jurisdiction of which its registered office or principal office is located", irrespective of the location of the accrual of the cause of action. Such an interpretation appears to be at odds with the Delhi High Court's interpretation of the Supreme Court's Sanjai Dalia ruling and renders debatable the question of jurisdiction.

The Delhi High Court, nonetheless, has in *RSPL v. Mukesh Sharma* (Aug. 2016) upheld its ruling in *Ultrahome Constructions*. The division bench in *RSPL v. Mukesh Sharma* also criticized the single judge for expressly dissenting with and opining contrary to *Ultrahome Constructions* in the order appealed against.

Consequently, there appears to be a lack of consensus with respect to the Plaintiff's unrestricted power to sue at the place of its registered office/principal place of business, in light of the different interpretations adopted by the Delhi and the Bombay High Courts of the Hon'ble Supreme Court's ruling in *Sanjai Dalia*.

### Protection of TPMs

In a step towards advancement of protection of the Technology Protection Measures usually employed to prevent acts of infringement and protect a copyrighted content. The Delhi High Court issued an injunction order against YouTube requiring it to take down video clips that show tricks or procedure to circumvent the encryption on Tata Sky's Set-Top-Boxes to access the High-Definition content that the viewers had not subscribed to or paid for.