



Delhi High Court grants injunction against identical AMIR'S mark

Thought Leadership • January 4, 2018

Prachi Agarwal talks about the recent decision of the Delhi High Court in a case involving identical registered trademarks, and the remedy of passing off available for both registered proprietors. In a recent decision dated 26th September 2017 of M/s Ishar Dass Amir Chand v. Mr. Jagdish Babu Sharma & Ors., CS (COMM) 1190/2016, the Delhi High Court granted an injunction restraining a registered proprietor of a Trademark from using the mark 'AMIR's' including the trade dress/get up etc. for manufacturing, selling and exporting henna and henna based dyes. The Defendants were the registered proprietor of the trademark under Class 3. The suit was not contested by the Defendants. As per the facts of the case, the Plaintiff is the prior adopter and registered proprietor of the trade mark AMIR'S in Class 3 and is engaged in the business of cultivating, manufacturing and exporting Henna under the mark since 1996. The issue emanates from Section 28(3) of the Trademarks Act, 1999 (hereinafter the Act) although, the same does not find mention in the Ishar Dass order. The section contemplates a situation where two persons are registered owners of identical or nearly resembling trademarks. [Read the article on World Trademark Review](#) (subscription required).



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