

Summary Judgments

The Commercial Courts Act came into force in 2015 and provides for dedicated courts to settle ‘commercial disputes’, including intellectual property disputes, valued at Rs. 10 million (US\$ 1,50,000) or more. Its chief aim is expeditious adjudication and it carries several provisions to this end including the scheme of ‘summary judgment’ that empowers a commercial court to decide claims without recording oral evidence.

Instances of the courts, including the Delhi High Court, exercising powers of summary judgment are becoming more frequent. In the context of intellectual property, the Delhi High Court’s January 2017 decision in *Bright Enterprises Pvt. Ltd. & Anr. vs. MJ Bizcraft LLP & Anr. (RFA (OS) (COMM) 8/2016)* is particularly significant. So convinced was the judge of the merits of the plaintiff’s claim in this case, that he *suo moto* invoked the provisions of ‘summary judgment’ and, without issuing summons to the defendants, ‘summarily’ dismissed the suit. Upon appeal, the Division Bench of the High Court of Delhi clarified that court proceedings are adversarial in nature and not inquisitorial. Thus, summary judgment could not be rendered in a suit in the absence of an adversary and merely upon an inquisition by the court. It was essential that an application for summary judgment be filed - either by the plaintiff or the defendant – at a time after summons had been served on the defendant and prior to the court framing issues in the suit. Following this, if the court was of the opinion that the opposite party has no real prospect of succeeding on merits and, there was no compelling reason why the suit should not be summarily disposed of, it could deliver a summary judgment. The Bench also emphasized that if procedural stipulations were not followed scrupulously in such cases, there was danger of gross injustice.

A few months later in *Ahuja Radios vs. A. Karim (CS (COMM) 35/2017 – High Court of Delhi)* an application for summary judgment was submitted by the plaintiff (Ahuja Radios) in a suit seeking permanent injunction against the defendant’s use of its proprietary trademark ‘AHUJA’ - used by the plaintiff since 1940 and duly registered. The court appointed a local commissioner and upon inspection of the defendant’s premises, four amplifiers were discovered that, per the defendant’s own admission, were not ‘original’. Subsequently, the defendant argued that it was a small trader, unaware of the plaintiff’s trademark rights, and that the counterfeit amplifiers had been planted by the plaintiff in order to entrap it. The court observed that the defendant had ‘no real prospect’ of resisting the decree of injunction sought and ‘little prospect’ of succeeding in its defence of not dealing in counterfeit products. On such basis, on May 1, 2017 the court passed a decree for permanent injunction in a summary disposal of the suit.

Both decisions are steps in the right direction and summary judgment procedures ought to gain traction in times to come.