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# IP Updates

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## SC stuns the plaintiff's power

The Honorable Supreme Court while dismissing the appeal filed by the plaintiff in the case of IPRS v. Sanjay Dalia & Ors held that the plaintiff in a suit for infringement of trademark or copyright cannot harass a defendant by filing a suit before the court within jurisdiction of which the plaintiff possess its branch office or subsidiary office. The cause of action relating to infringement of copyright or trademark or both, if arises where the plaintiff resides or has its head office then the suit has to be instituted at the same place instead of filing it at some distant place where the plaintiff has its branch office even if the cause of action may have arisen there. The above judgment came as a great relief for defendants who were if caught red handed infringing the IP pertaining to copyright or trademark were harassed by plaintiff by exercising provision under section 62 of Copyright Act 1957 and section 134 of the Trademark Act 1999.

This provision empowers the plaintiff to file a suit for infringement where they reside or carries on business or personally works for gain. Utilizing the same provision the plaintiff's made the defendant run to the distantly situated branch offices as they carried their business at the branch offices too. The Apex court decided the matter on the rule of equity and said that the intention of parliament for drafting the aforementioned provisions was to save the plaintiff from getting harassed by travelling to where the defendant resides and instituting the suit under section 20 of CPC. The plaintiff cannot exercise the said provision to in turn harass the defendant. Thus the power of plaintiff was stunned by the Supreme Court unhesitatingly. For further details log on to

<http://spicyip.com/2015/07/guest-post-shedding-light-on-iprs-v-sanjay-dalia.html>

## The "Happy Birthday TO You" Copyright case takes a parabolic turn.

About two years back, the issue raised before the US District Court for the Central District of California was regarding the validity of the Copyright on the famous song which is the song specially dedicated to birthdays of every human being on this planet - "Happy birthday to you" was challenged by a production house named "Good morning to you".

Warner/Chappel is the company who owns the copyright on the said song. The plaintiff paid a sum of 1500 \$ to the Warner /Chappel for using the said song in the documentary made by them on the history of the song. Certain evidences produced by the defendant in the case included publications dating back to 1927 which included the song "Happy Birthday To You". The plaintiff after doing some ground research found that the original publication of the year 1922 did not have any Copyright notice, thus there is no copyright on the said song. The song was actually owned by a company named Summy Co. which was took over by Warner/Chappel. The original recording dates back to 1893, on the basis of these revelations the plaintiff claimed that the copyright has expired way back in 1997 even if the publication date is considered and thus no rights be claimed on the said song by the defendant in the year 2015. Infact the defendant is liable to pay back the millions of dollar collected as royalty from the people who paid for using it.

Further Details can be obtained from the following link.  
<http://www.worldipreview.com/news/film-maker-handed-potential-gift-in-happy-birthday-copyright-case-8680>

