

INDIA: Bombay High Court Grants Copyright Owners Right to Sue Despite Not Being Copyright Society

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Shilpi Mehta Nanda
ZEAL Attorneys
New Delhi, India
Famous and Well-Known
Marks Committee

Verifier



Prashant Jha
Mettle Legal
Gurgaon, India
Commercialization of Brands Committee

The question in the case of *Novex Communications Pvt Ltd. vs. Trade Wings Hotels Limited*, Commercial IP Suit No. 264 (2022), was whether the plaintiffs (Novex and Phonographic Performance Limited (PPL)) were entitled to seek relief without being registered as a copyright society under Section 33(1) of the Indian Copyright Act, 1957 (the Act).

The Bombay High Court answered the question in the affirmative, holding, in January 2024, that the plaintiffs filed the suits against the defendants, who were infringers, because they failed to obtain a license for the works—sound recordings—they were exploiting. The case concerned whether PPL and Novex were exclusive owners of the copyright and whether they had a right to prevent infringement of their exclusive copyright.

The court stated that merely the fact of PPL being registered at one time as a copyright society would make no difference to its findings as PPL granted licenses as an owner and thus was entitled under Section 30 of the Act to grant its interest in the copyright by license. Further, it would not make any difference that Novex was carrying on the business of granting licenses of its works as there is no restriction placed on an

owner to grant any interest in the copyright by license. The power under Section 30 to grant a license by an owner was in no manner denuded by Section 33(1) of the Act. Accordingly, PPL and Novex, as owners of copyright with respect to their works were entitled to file the cases and seek relief.

The plaintiffs had sought a perpetual injunction restraining the defendant from publicly performing or communicating the sound recordings of the songs assigned and authorized to Novex and PPL without obtaining licenses from them.

The defendant contended that the plaintiffs had to be registered as a copyright society under Section 33(1) of the Copyright Act, 1957 to carry on the business of issuing licenses and thus they were not entitled to the relief sought. However, the court refused to accept these submissions and allowed the plaintiffs to claim relief against copyright infringement by the defendants.

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