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Delhi High Court: use of word that is prominent in registered logo mark amounts to infringement

India - [Nishith Desai Associates](#)

- Max Healthcare sought to restrain Sahrudya Health Care from operating hospitals and/or providing any services under the name Maxcure Hospital/Maxkure
- The court rejected the defendant's argument that the plaintiff could not sue a party using the words forming part of its logo mark for infringement
- The confinement of the defendant's hospitals/services to certain part of India was not a defence in this case

The Delhi High Court has issued its decision in [Max Healthcare Institute Ltd v Sahrudya Health Care Pvt Ltd](#) (CS (COMM) No 866/2016).

Background

Plaintiff Max Healthcare, owned by Max Financial Services Ltd, filed suit before the Delhi High Court to restrain defendant Sahrudya Health Care from operating hospitals and/or providing any services under the name Maxcure Hospital/Maxkure/Maxcure Mediciti or any other mark/name similar to the plaintiff's trademarks MAX/MAX HOSPITAL.

The plaintiff holds registrations for logos containing the terms 'Max Healthcare', 'Max Hospital', 'Max Medcentre', 'Dr. Max Clinic' and 'Max Healthstaff'. Relying on these registrations and its extensive use of the marks, the plaintiff argued that the term 'Max' itself was now closely associated with the plaintiff and that the defendant's use of the deceptively similar marks MAXCURE HOSPITAL/MAXKURE infringed the plaintiff's rights in its registered trademarks.

The defendant argued as follows, among other things:

- It was not using the mark MAX by itself, but in conjunction with other terms such as 'Maxcure Hospital' and 'Maxkure'; and
- The plaintiff only owned registrations for logo marks. Therefore, by virtue of Section 17 of the Trademarks Act 1999 (registration of a trademark provides rights over the mark as a whole), the plaintiff did not have a monopoly over the words forming part of its registered trademarks and the rights extended only to the logo mark as a whole.

Decision

On 4 July 2019 the Delhi High Court passed an interim order restraining the defendant from using the marks MAXCURE HOSPITAL/MAXKURE or any other mark similar or deceptively similar to the plaintiff's marks. The court granted the defendant 30 days to make the required changes to its name. The reasoning of the court was as follows.

The owner of a registered logo mark can sue another party using a word mark for infringement if the test for deceptive similarity is established

The court rejected the defendant's argument that the plaintiff could not sue a party using the words forming part of its logo marks for infringement. The court held that the adoption by the defendant of a word that was prominent in the plaintiff's label/device marks amounted to infringement. Based on the facts of this case, the court concluded that the defendant's marks MAXCURE HOSPITAL/MAXKURE were deceptively similar to the plaintiff's logo marks which contain the terms 'Max Healthcare', 'Max Hospital', 'Max Medcentre', 'Dr. Max Clinic' and 'Max Healthstaff'. The court also noted that the term 'Max' had come to be associated solely with the plaintiff's hospitals in India.

As to the defendant's argument that its logo was different from the plaintiff's logo marks, the court noted that the business of hospitals is such that a patient is not very likely to notice the logo of the hospital, but only its name. Therefore, the defendant's argument that its logo was distinct from the plaintiff's logo was struck down.

The confinement of the defendant's hospitals/services to certain part of India was not a defence in this case

The court observed that the business of hospitals/providing healthcare services in India is no longer territorial: hospitals in different regions are competing against each other by providing cheaper and better treatment options. The court noted that a patient searching for the plaintiff's Max Hospital was likely to associate the defendant's Maxcure hospital with the plaintiff.

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