



PARTNER

Tusha Malhotra

Tusha Malhotra has been actively involved in several phenomenal landmarks which have changed the face of Indian IP Jurisprudence

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Overview

Tusha has over 15 years of experience as an Intellectual Property Litigator. She has been actively involved in several phenomenal landmarks which have changed the face of Indian IP Jurisprudence. Known as a fierce litigator, Tusha actively represents big-ticket domestic and international clients in contentious matters across all industries including Pharmaceuticals, FMCG, Luxury apart from many other verticals.

Awards & Recognition

- BW Legal 40 under 40 – 2022

Career Highlights

Tusha has been a counsel in various firsts. Some of the notable works are:



- Merck Sitagliptin litigation – represent Merck and filed 17 lawsuits in a year to enforce its Sitagliptin patent. In the said 17 lawsuits, successfully procured injunction orders against all the Defendants. Further, facilitated a quick resolution of these lawsuits, and got 8 lawsuits favorably disposed in favor of Merck
- Represented Novartis in Novartis v. UOI, first case on interpretation of Section 3(d), Patents Act from the Supreme Court of India
- Represented Merck in Merck v. Glenmark, first patent case decreed in favor of the Plaintiffs in a high contested scenario under the patents Act, 1970
- Represented Mattel, in a tagged appeal with Microfibres v. Girdhar and Co., a leading case on interpretation of Section 15(2) of the Copyrights Act, 1957
- Represented Mattel in Mattel v. Jayant Agarwal, the Scrabulous case, first IP matter where trial was recorded through videoconferencing
- Represented AGC Flat glass, in AGC Flat Glass v. Anand Mahajan, first case under the provision of Section 57 to 59 of the Patents Act, 1970, permitting amendment of a subject patent in a suit for infringement
- Represented MVF 3 ApS, in MVF 3 ApS v. M. Sivasamy, wherein for the first time a confidentiality club was devised to maintain the confidentiality of documents
- Represented telecom giants like Nokia, Samsung etc. before the Customs Authorities in patent troll matters such as the Ramkumar case (the dual sim card case) and Bharat Bhogilal case (the laser marking case)
- BMS v. Indoco – patent – where permission was denied to sell generic drugs in light of the pandemic
- Cipla v. SUN, Madras HC – trademark – injunction was granted in favor of CIPLA, and against SUN regarding their infringing respiratory products. Citing covid, SUN sought to dispose of their existing stock as they are respiratory drugs, the Court denied the request
- Pfizer v. Adley – alternate ways to contribute to the Pandemic – costs and damages to be payable to Pfizer (our client) were agreed to be transferred to the Lawyer’s welfare fund intended to be used for the purchase of Oxygen concentrators and cylinders
- Represented Merck Sharp & Dohme Corporation in a highly contested litigation where hefty monetary compensation was given up for larger good with infringer being directed to use the costs to plant trees in the national capital of India to purify its air
- Represented Hermes in a matter where where damages were spent towards providing purified water, sporting equipment and menstrual hygiene products to adolescent girls from economically weaker background



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EDUCATIONAL

- LL.B. from Faculty of Law, University of Delhi

THOUGHT LEADERSHIP

Tusha writes for various leading national and international publications and law journals like MIP, Asia IP etc. She is also a co-author of the country chapter of Trade Secrets Throughout the World; Patent Litigation India Chapter by Globe Law. She has been a speaker at various forums like the Indian National Bar Association Conference, JETRO ,GIPC, BW Business World and has been a part of one of its kind initiatives by CIPAM which saw her spreading IPR awareness amongst students at 43 Kendriya Vidyalayas across the state of Rajasthan.



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By Tusha Malhotra and Yamini Jaswal The article was originally published in Asia Business Law Journal Russia's invasion of Ukraine has wrecked the lives
