



## Right holders can commence action before Delhi HC for TM infringement occurring elsewhere

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*Delhi High Court grants injunction against restaurant employing 'KING BURGER', "a mere rearrangement of the plaintiff's well known trade mark BURGER KING. A suit was recently filed by popular fast food chain Burger King before the Delhi High Court seeking an injunction restraining the Defendant from using the trade mark KING BURGER in relation to its [restaurant](#) in Mysore. The court had at the outset enquired whether it would have territorial jurisdiction to entertain the suit since the Defendant's restaurant is based in Mysore. Burger King contended that the court has territorial jurisdiction under Section 134 (2) of the Trade Marks Act, 1999 since it is carrying on business within the [territorial jurisdiction](#) of the court through multiple restaurants operating throughout Delhi. Moreover Burger King did not have any outlet in Mysore at the time of institution of the suit and therefore the exception to Section 134(2) which was carved out by the Supreme Court in the *IPRS vs. Sanjay Dalia* decision was not applicable in this case. Significantly, the court also accepted the submission that it has territorial jurisdiction to entertain the suit by virtue of Section 20(c) of CPC as Burger King's trade marks which formed the subject matter of the dispute were registered in Delhi. As a result an integral part of the cause of action arose within the territorial jurisdiction of the Delhi High Court. The court accordingly proceeded to grant an interim injunction restraining the Defendant from using the impugned mark KING BURGER or other mark deceptively similar to BURGER KING. *Burger King Corporation v Mr. Ashraf & anr; before the Delhi High Court; order dated 25.8.2017**

