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Times Now secures injunction against use of NEWSHOUR mark by ex-employee's TV channel

India - [Khaitan & Co](#)

- The Delhi High Court has granted an interim injunction in favour of Times Now in a dispute over the NEWSHOUR mark
- Times Now's application to register a second mark on an intent-to-use basis required more consideration
- The court declined to interfere with Republic TV's use of the tagline "nation wants to know", made famous by a former Times Now reporter

In [Bennett Coleman & Co Ltd \(Times Now\) v ARG Outlier Media Pvt Ltd \(Republic TV\)](#) (IA No 7306/2017 in CS [COMM] 434/2017), the Delhi High Court has issued an interim order restraining Republic TV from using the mark NEWSHOUR, but has not intervened with regard to its use of the tagline "nation wants to know".



Facts

Before founding Republic TV, Arnab Goswami was the editor in chief/employee of Times Now. Two significant factors in his popularity were Times Now's primetime live debate show *The Newshour* and Goswami's use of the phrase "nation wants to know", while presenting. In 2016 Goswami resigned from Times Now and founded Republic TV; Times Now's subsequently launched a criminal action and a civil suit against him and other employees for breach of contract and misappropriation of Times Now's confidential data. Upon becoming aware of Republic TV's intention to adopt NEWSHOUR and NWTK as trademarks, Times Now filed the present suit for trademark infringement, based on the following grounds, among others:

- NEWSHOUR is an unchallenged registered trademark and Republic TV's trademark applications for marks such as ARNAB GOSWAMI'S NEWSHOUR wholly contained Times Now's mark;
- NWTK is scripted by and based on Times Now's prior use and the goodwill and reputation is acquired by Times Now;
- all intellectual property created and used by Goswami during his employment with Times Now belongs to Times Now; and
- Republic TV cannot claim that the marks are generic, since it has also applied for these marks.

In its defence, Republic TV relied on the following grounds, among others:

- Times Now's suit was barred since it had previously filed a similar action omitting the trademark issue.
- NEWSHOUR *per se* is generic and, with Republic TV's additions to this mark, they are distinguishable and there is no likelihood of confusion.
- NWTK is not registered by Times Now and therefore there can be no claim for infringement. Further, NWTK is synonymous with Goswami and his image and is inseparable from his individuality – this was never associated with Times Now. Moreover, NWTK was not scripted by Times Now and is a spontaneous and creative expression coined by Goswami. Trademark applications were filed for NWTK to nurture the tagline.
- The fact that Times Now filed trademark applications for NWTK on an intent-to-use basis and then tried to amend to a prior use date clearly proved its lack of IP rights.
- These trademarks were not governed by employment.

Decision

After hearing from both parties, the court issued an interim order restraining use of the NEWSHOUR mark, observing the following, among other things:

- Times Now's earlier suit did not bar the present suit.

- NEWSHOUR is a registered trademark belonging to Times Now and pleas that it is generic did not find favour when Republic TV itself has applied for this mar.
- The fact that Times Now applied to register NWTk on an intent-to-use basis and then amended the date of use to an earlier date required more consideration and examination of evidence. Thus, the court issued no relief at this stage in relation to NWTk.

Comment

There are number of other broadcasting companies using 'news hour' in a descriptive sense. Further, Republic TV's applications were not for NEWSHOUR *per se*. To that extent, it remains to be seen whether this decision will stand the test of time.

The decision also highlights the importance of entering the correct date of use in trademark applications in India. Times Now was not given interim relief for NWTk due to this complication. Many foreign applicants make this mistake by trying to emphasise quick filing/early priority date, rather than checking the date of prior use in India (which may be a superior right).

Further, if Republic TV's/Goswami's argument on NWTk holds good at the final hearing, it may mean that trademarks independently conceived by employees may not be automatically owned by their employer - a development that could have a significant impact on the dynamics of employment contracts.

The views of the authors in this article are personal and do not constitute legal/professional advice

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