

CENTRE FOR INTELLECTUAL PROPERTY RIGHTS

NEWSLETTER OCTOBER 2021

INTERNATIONAL NEWS



HIGHLIGHTS OF THIS ISSUE

**GLOBAL VACCINE IP
WAIVER NOT EXPECTED
UNTIL DECEMBER 2021**

**US PATENT &
TRADEMARK OFFICE
PUBLISHED A NEW
PATENT APPLICATION
FROM APPLE TO
MONITOR BLOOD
PRESSURE**

**PATENT (AMENDMENT)
RULES, 2021 NOTIFIED
AND HAS COME INTO
FORCE**





Swiss authorities relax their trademark inspection procedures

The authorities have agreed to loosen its rules for trademarks that include geographical names. It is said that if the correct use of a trademarked indication of source of a product is available, it is no longer deemed deceptive. As a result, under Article 2(c) of the country's Trademark Act, it will no longer be necessary for trademarks having a source indication to confine products and services to their geographical origin.



Australia's designs systems and legislation implements new changes

The country's Designs Act, 2003, will be amended starting in March 2022. The Designs Amendment (Advisory Council on Intellectual Property Response) Act 2021 proposes a number of changes to the previous act in order to improve the process of registering designs. A one-year grace period for designs is included in the proposed act, which will safeguard designers who, by accident or ignorance, publish their work before requesting protection, as well as adjustments to publishing timeframes. Only the registered owner of a registered design can initiate infringement proceedings for infringement of the registered design under the current act, but the new act adds the right of an exclusive licensee to sue, which is similar to the right granted to an exclusive licensee of a patent under the Patents Act.

Global vaccine IP waiver not expected until December 2021

In the event of a pandemic, countries like India and South Africa proposed waiving their vaccine-related intellectual property rights temporarily in 2020. The bill called for the suspension of certain TRIPS regulations, but the World Trade Organization (WTO) will hold the next Global Panel Conference in November 2021 without the involvement of economically wealthy countries. As a result, this project was not pursued. After the Global Panel Meeting, it is predicted that progress on the abolition of intellectual property would be accomplished.



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Federal Circuit narrows scope of prior art available for Design

The recent decision of the US Court of Appeal to limit previous art for design patent applications to solely similar sectors, following an appeal by the Patent Trial and Appeal Board, makes it simpler for applicants to secure design patents. The applicant's lip implant tool resembles an art tool used to smooth and integrate portions of pastel or charcoal works in the instance of *Re SurgiSil LLP*. The USPTO denied the application based on the previous art. The Federal Circuit overturned the USPTO and PTAB judgments, finding that the applicant's claim wording confined their invention to a design for "lip implants" and that previous art devoted to drawing stumps and pencils did not anticipate a claim to a lip implant. Although this judgement benefits patent applicants, it makes it harder for examiners to discover anticipatory previous art for design patent claims.



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US Patent & Trademark Office published a new patent application from Apple to monitor blood pressure

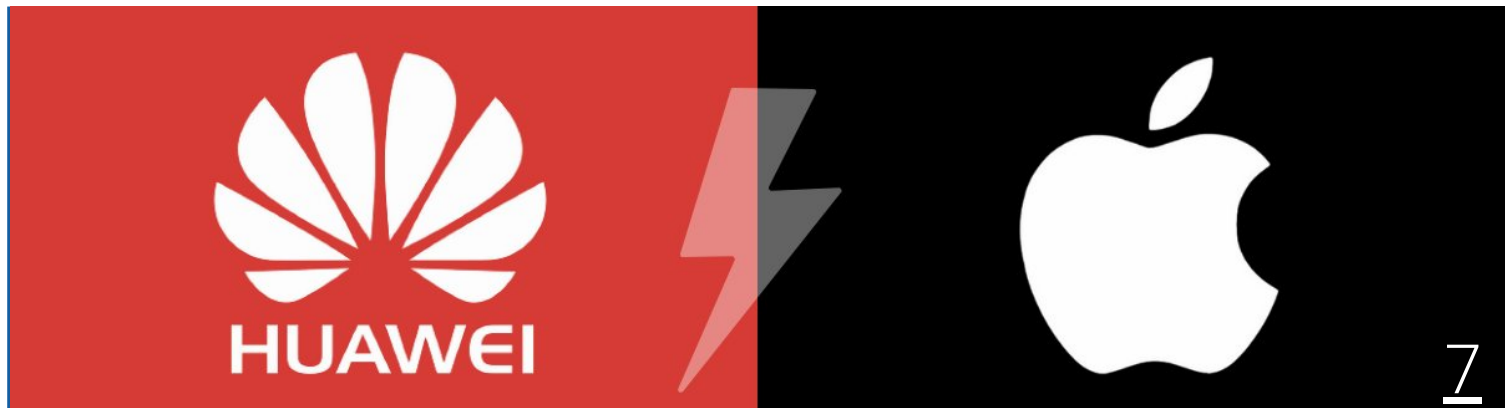
The tech giant invents a next-generation multifunctional medical cuff that uses sensors to assess blood pressure. According to Apple's patent history, a user can monitor one or more physiological parameters by connecting a monitoring device to one of their limbs, such as a blood pressure monitor. This psychological monitoring gadget is a much-anticipated market creation, as the specifics in the patent application are yet another, with extensive descriptions and various patent figures and great depth that consumers and medical professionals might investigate.



IPA Technologies Inc v. Amazon.com

According to IPA Technologies, Amazon's Alexa employed speech assistant technology. Two other patents are already in place to protect it. Amazon's usage of previously protected technology is also believed to be infringing on Amazon's patents. Alexa's technology, according to Amazon, works differently from other patents and so does not infringe on the IPA Technologies patent. Alexa's speech recognition and response technology did not infringe the law, according to the US District Court, because it did not work like patented technology. It's worth noting that IPA recently sued Apple, Google, and Microsoft for infringing on digital assistant patents.





Apple loses legal battle against Huawei 'MatePod' trademark

Huawei has introduced "MatePod," a new earphone with the name and brand "iPhone makers are similar to goods such as iPod, EarPods, and AirPods," according to the company. Huawei was accused of attempting to steal its product name and trademark, according to a complaint filed with the China National Intellectual Property Office (CNIPA). Apple has not presented adequate evidence that Huawei has duplicated or infringed on its products or trademarks, so Huawei is trademarked, according to trademark regulators.



US Copyright office issues proposed rules for the new Copyright Claims Board

A proposal to establish the "Copyright Claims Commission," a new jurisdiction allowing copyright owners to exercise their rights without having to go to federal court, was made as early as January 2021. These currently proposed rules pertain to the establishment and operation of the CCB's preceding steps' early phases.



Star Trek- Dr. Seuss Enterprise's five years of legal battle concludes in a settlement

Dr. Seuss Enterprises, Dr. Seuss Enterprises, Dr. Seuss Enterprises, Dr. Seuss Enterprises, Dr. Seuss Enterprises, Dr. Seuss Enterprises, Dr. Seuss proceeded with the claim that Comic Mix was running the show. Intellectual property rights were violated as a result of Sousse's actions. To begin with, the district court decided in favour of ComicMix, a decision that was later overturned by the US Court of Appeals. After a five-year legal battle, the parties have reached an agreement on cartoonist Ty Templeton's cancer and health.

Tesla still faces a \$2 billion patent lawsuit by Nikola over design- patents infringement

The case between Nikola and Tesla was initially filed in 2018, wherein Tesla was accused of infringing several ideas and patents. Because neither Nikola nor Tesla had replied to prior directives, the case was assumed to be closed. Nikola's three-year-old \$2 billion patent case against Tesla will be continued as a result of a recent US Federal Court ruling. The lawsuit against Tesla will be administratively closed but not dismissed, according to the statement.



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United Arab Emirates (UAE) will join the Madrid System in December 2021

Following Tobago and Pakistan in 2021, the UAE has deposited its instrument of entry to the Madrid International Trademark Registration system. As of December 28, 2021, the UAE will be the 109th member state of this system, and trademark applicants will be able to identify the UAE in an international trademark registration.



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Patent (Amendment) Rules, 2021 notified and has come into force

After being notified by the Ministry of Industry Promotion and Domestic Trade, the Patent (Amendment) Rule 2021 went into force on September 21, 2021. "Educational Institution" has been included as a category of applicants based on Rule 2 (ca). This modification allows such applicants to save up to 80% on their institutional patent filing and prosecution expenses. Previously, this advantage was exclusively offered to federally designated educational institutions that were also government-owned.



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Solas OLED v. Samsung Display Co.

Solas OLED is a proprietary technology licencing firm that specialises in all things OLED. Samsung was accused of infringing on two Solas patents in 2019. Samsung contested a federal jury decision awarding the patent company a payment of around \$ 77.70 million. Currently, Texas courts are unable to overturn payment decisions.

Sterlite Technologies Ltd. fights IP theft claim – Contends that the rival's Patent has to be revoked

An Indian company has denied allegations of IP theft by Italian cable network giant Prysmian SpA. The company claims that the alleged product does not infringe the claimant's intellectual property rights and that the Italian company's product is not new and demands that the patent be revoked.

Nippon Steel seeks injunction against Toyota in Patent suit -

Toyota Motor Corp. has been sued by the steelmaker in Japan for allegedly infringing on the supplier's patent for electrical steel sheets. It has also requested a preliminary injunction and damages of around 20 billion yen from the world's greatest carmaker.

Ericsson suing Apple in relation to 5G Patent Licensing Rates

Telecom Biggie of Sweden has filed a case in Texas District Court against Apple to resolve the planned 5G patent licence charge, stating that Apple has employed unlawful tactics to cut its licence fees. I put the responsibility on the firm. Apple has not declared Ericsson as FRAND (fair, reasonable, and nondiscriminatory), according to the business, and it must adopt "Apple's self-defined methodology."





JPMorgan to allow others to use its IP's, hopes of promoting transition to low-carbon technology

Many of the world's most powerful technology firms, including Microsoft, Facebook, and Hewlett Packard Enterprise, have pledged to support low-carbon technology by 2020. JPMorgan Chase has declared that it will make IP available to anyone adopting low-carbon technology as part of this initiative. The company operates big data centres and possesses numerous major patents relating to data centre efficiency and ventilation.



Netflix to Trademark 'SQUID GAME'

"Squid Game," a Netflix original Korean series, has been in the spotlight since its premiere. The show's popularity is breaking all records. To protect its creative, Netflix seeks to trademark the popular series name to enable sale of merchandise, including apparels, and a wide range of goods and services across the world. for which the trademark will be used. This will provide Netflix with exclusive rights and protection in respect to the marks and related items.

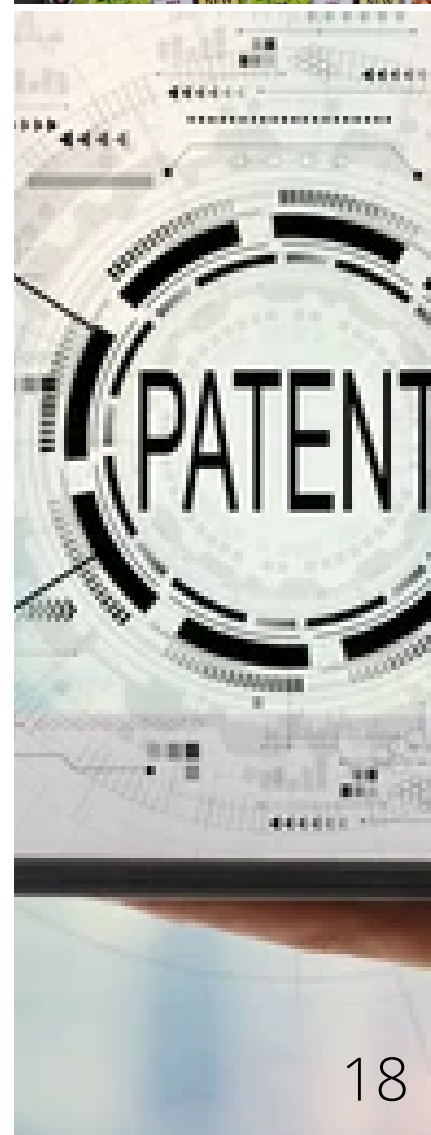
Disney v. Creators over Comic book Copyright

Disney has launched a number of lawsuits against the copyright termination letters given by the characters' creators in order to preserve total rights to the Marvel characters. The creators' actions of claiming ownership to the characters through a copyright termination letter sparked the conflict. The creators are attempting to reclaim rights to Marvel characters they helped create, such as Doctor Strange, Black Widow, Hawkeye, Captain Marvel, Falcon, Blade, and the Wizzard, through this notice



Robots cannot be named as the inventor for a patent- US District Court -

Dr. Stephen Thaler and Professor Ryan Abbott (University of Surrey, Faculty of Law) have collaborated on an AI robot that will be invented. AI came up with a unique cup holder and flashlight. The robot maker later patented these and claimed credit as the creator. Australia and South Africa have both agreed to declare AI as the inventor. Because AI cannot be deemed a person, patents have been refused in both the UK and Europe. The patent was dismissed by the USPTO in 2020, and the decision has now been supported by the US District Court. It was also said that the invention was unique and that the patent may have been approved if the creator had been named.



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EA to trademark EA Sports FC

EA Sports stated last week that it was evaluating its name and rights arrangement with FIFA. It was found following this statement that the corporation had submitted many trademark registrations with the UK Intellectual Property Office and the European Union Intellectual Property Office. According to the same, there's a chance the FIFA trademark may be deleted from the property since EA Sports will be trademarking EA Sports FC.



FC

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Brazil allows registration of Position Trademarks from October 1, 2021

Any identification mark that is fastened to a specific product or product in a certain position or method qualifies as a position mark. In June 2021, the Brazilian National Institute of Industrial Property held a public hearing on the registration of position marks. The country's National Institute of Industrial Property has issued an ordinance to create guidelines for registering position marks based on this.



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NATIONAL NEWS



HIGHLIGHTS OF THIS ISSUE

THERE IS NO NEED FOR A LICENSE TO PLAY SOUND RECORDINGS IN SOCIAL AND RELIGIOUS GATHERINGS, ACCORDING TO FHRAI

THE FORMER CANNOT EXIST: COPYRIGHT ON AN IDEA OR A BREACH OF CONFIDENTIALITY ON AN IDEA

INDIA REQUESTS AN IPR WAIVER IN EXCHANGE FOR EQUAL ACCESS TO COVID-19 VACCINES



Blocking specific Youtube channels is one example of how Copyright rules are being misapplied

The Indian Internet Freedom Foundation wrote to Google India, claiming that Youtube content removals and restrictions in India are the result of multiple media houses misapplying copyright laws and rules to target individual content providers and channels. According to the court, YouTube's actions violate the basic right to free speech and expression, as well as the freedom of their audience to access information, as guaranteed by Article 19 of the Indian Constitution. In addition, the letter asks YouTube to develop a robust due diligence procedure for dealing with takedown pleading while securing democracy, press freedoms, and human rights.



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There is no need for a license to play sound recordings in social and religious gatherings, according to FHRAI

Last week, two Mumbai-based private firms were charged with deception and extortion for extorting Rs1.37 lakh from businessmen under the guise of providing them copyright licenses for performing musical performances at wedding ceremonies and festivities in a star hotel in Pune. Following this event, the Federation of Hotel and Restaurant Associations of India (FHRAI) and the Event and Entertainment Management Association (EEMA) have teamed up to launch a nationwide campaign to inform the public that hotels and wedding venues do not need to obtain any kind of license to play any sound recording for weddings and related social or religious functions held at the venues.



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Silicon Valley Infomedia Private Limited v. M/s.Matrimony.com Limited

Silicon Valley Infomedia was sued for trademark infringement, and the Madras High Court recently ruled in favour of Matrimony.com. The defendant's company, www.siliconinfo.com, was deceptively utilising the plaintiff's trademark to redirect internet traffic to the defendant's website, according to the plaintiff Matrimony.com. The defendant was also directed to also submit all materials with it that bore the plaintiff's trademark. Also, since there was no substantial evidence citing that the defendant had gained profit using the plaintiff's mark, no damages were awarded



In the India-Pakistan dispute over the GI classification for Basmati rice, the EU verdict was misconstrued by Pakistan

Because India and Pakistan are the only two nations in the world that produce Basmati Rice, Pakistan has opposed India's application to the European Union for a Geographical Indication (GI) tag on the rice. A trademark suit was recently filed in respect to a Basmati Rice distribution mark, leading the Rice Exporters Association of Pakistan to believe that the Indian application for the GI Tag had been rejected. In truth, the matter is still pending, according to Indian officials, and the country is still vying for recognition and privileges.

Today's TV vs. News Laundry

The television network that owns India Today and Aaj Tak has filed a complaint against NewsLaundry, seeking Rs 2 million in damages for copyright infringement and slander. In addition, the Supreme Court of Delhi intends to publish 34 articles on its own website, remove 65 films from its YouTube channel, and delete comparable posts from all social media sites.



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Patent application of Covid medication is being opposed by an Indian government agency and a patients' rights organisation

The Entrepreneurship Development Centre and the Cancer Patients' Rights Group have objected to Merck's patent application for Molnupiravir, which is claimed to be the first oral antiviral treatment to reduce Covid hospitalisation or death by 50%. The medicine lacks innovation and inventive elements, according to the objection, which was filed when the application was still in the pre-grant stage.

The former cannot exist: copyright on an idea or a breach of confidentiality on an idea

A scriptwriter has launched a lawsuit against Salega Mind, alleging that he used his unique ideas without his consent to make a Marathi film. He also claimed that his storey was plagiarized, which he said was a copyright violation. The filmmakers claimed that their film was based on someone else's script. The Bombay High Court responded by ruling that while ideas cannot be sued for copyright infringement, they can be sued for violation of confidentiality.



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GI Tags have been given to indigenous Uttarkhand and Kerala items

Tag was given to Uttarkhand for seven products: Kumaon's Chyura Oil, Munsyari Rajma, Bhotia Dann (a rug manufactured by a distinct group), Aipan (traditional art), Ringal craft, copper products, and Thulma (blankets made from a specific locally available fabric). The GI Tag has been given to Kerala for the Kuttiaattoor mango and Edayur chili. In India, the number of registered GIs has recently increased. The number of registered GIs was 370 in 2020, but by September 2021, it had risen to 413.



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BharatPe has filed a petition with the Delhi High Court, requesting that PhonePe's trademarks for the word 'Pe' be cancelled worldwide.

There have been disagreements between these two firms and the "Pe" brand since 2018. The name "Pe" is a defining characteristic of PhonePe's brand, according to the company, and Bharat Pe's use of it is a trademark violation. When BharatPe announced the "PostPe Buy Now Pay Later" scheme, the problem became even worse. PhonePe's name is sufficiently close to that of its competitor that it may mislead customers and should not be allowed. PhonePe moved to the Bombay Supreme Court to defend its trade name, but the court ruled that because it didn't have its own registration, it couldn't claim exclusive rights to the word "Pe." Following PhonePe's decision to drop the litigation, BharatPe has filed a lawsuit to have PhonePe's numerous registrations for the Devanagari script device mark "Pe" cancelled.



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The Delhi High Court has circulated the Intellectual Property Division (IPD) Rules, 2021, for consultation from the Bar

In July 2021, the Hon'ble Chief Justice of the Delhi High Court announced the establishment and operation of a new Intellectual Property Division that would solely deal with IP disputes. The Delhi High Court circulated the IPD Rules, 2021 to members of the bar for thoughts and recommendations on October 8, 2021. The IPAD's original and appellate jurisdiction, as well as other miscellaneous petitions arising out of particular IP statutes, are covered by the IPD Rules, which were published in 2021.

Prior to the meeting with the US under the India-US Trade Policy Forum, the DPIIT is seeking input on IPR problems

The Department for Promotion of Industry and Internal Trade (DPIIT) has sought input on the issues facing stakeholders in relation to intellectual property rights (IPR) and the various procedures and steps involved, with the goal of bringing these concerns and difficulties to the attention of the US in the meeting scheduled for the third week of October 2021.

India requests an IPR waiver in exchange for equal access to COVID-19 vaccines

During the G20 Trade and Investment Ministerial Meeting, Minister Piyush Goyal underlined that approving the TRIPS waiver proposal is one approach to demolish trade barriers during current pandemic emergency, particularly in relation to vaccines. He emphasised the need of early universal immunisation against COVID-19 and the IPR waiver in making health services more accessible and affordable, allowing for free flow of health services.



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