

CENTRE FOR INTELLECTUAL PROPERTY RIGHTS

NEWSLETTER

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INTERNATIONAL NEWS



HIGHLIGHTS OF THIS ISSUE

P V SINDHU SUES 15 FIRMS FOR MISUSING HER NAME AND IMAGE IN COMMERCIALS

BOMBAY HIGH COURT PUTS A STAY ON INQUIRY INTO FIR FILED BY KUCB AGAINST THE WEB SERIES SCAM 1992

MADRAS HIGH COURT ISSUES NOTICE IN PLEA CHALLENGING RULE 29 (4) OF COPYRIGHT RULES, 2013.

.udrp



adidas



Adidas being sued by a streetwear brand

Once again, Milkcrate Athletics, a 25-year-old streetwear brand, has filed a trademark infringement lawsuit against Adidas at the US District Court for the Southern District of New York. Adidas had just launched a series of sneakers in cooperation with designer Vic Lloyd, in keeping with Milkcrate's lawsuit, including a logo on the tongue of the sneakers that Milkcrate said was "blatantly" stolen from its own design. This lawsuit comes after the parties reached an agreement in a very separate infringement case in 2019, during which a Milkcrate logo was used on a Brooklyn Nets T-shirt produced by Adidas and Vic Lloyd.



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IP Cease-and-Desist Notice Issued to Kim Kardashian

On June 23rd, the chiefs of the world's five largest intellectual property offices (IP5) held their 14th annual virtual meeting. The IP5 Heads of Office Meeting was held by video conference at the Japan Patent Office (JPO). The JPO and the leaders of the IP5 Offices came to an agreement at the meeting on a number of initiatives, including the creation of a roadmap for IP5 cooperation in the areas of new emerging technologies and artificial intelligence. Intellectual property (IP) has an important role in safeguarding and promoting innovations to help overcome COVID-19 and enhance economic recovery, according to the IP5 offices. They then shared information about their individual projects to address social challenges through the use of intellectual property rights (IPRs), emphasising the importance of maintaining a long-term perspective on IPRs and the critical role they play in tackling social issues.



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Tencent sues ByteDance over infringement claims

Tencent, has recently sued ByteDance, a Chinese internet technology company that owns the short video platform “Douyin”. Basically, a show, Crime Crackdown was produced by Tencent’s subsidiary, Tencent Penguin Pictures. Douyin stated that the team of Crime Crackdown had agreed to collaborate with it for the show promotions wherein clips from the show were uploaded. In response to the suit, Douyin has removed over 8000 such pieces of allegedly pirated content. Tencent is also seeking seeking RMB 100 million (USD 15.4 million) in damages from Douyin.



LVMH infringement case dismissed by Taiwanese SC

Givenchy and Celine, both owned by LVMH Mot Hennessy Louis Vuitton, launched a copyright infringement case against a Taiwanese handbag manufacturer for replicating its bags and selling them on e-commerce sites. Taiwan's Intellectual Property (IP) Court, dismissed the copyright infringement allegation, but allowed the claim of unfair trade practice. In appeal, the Supreme Court upheld the IP Court's decision and held that "the handbag designs in dispute have utilitarian or functional features, which aren't protectable by copyright law."



An investment firm foregoes purchasing a domain name and suffers a UDRP loss as a result

A WIPO (World intellectual property Organization) Panel recently issued an unfavourable decision against Natixis, a French financial business, in a UDRP dispute (Uniform name Dispute Resolution Policy). The proprietors of the URL "www.vega.investments," which Natixis wanted to utilise for its sub-brand "Vega," had filed a cybersquatting complaint under the UDRP. The domain in question was placed up purchasable for \$ 1,995 during the dispute, when the domain owner decided to cancel his planned commercial endeavour of the identical name and Natixis instead chose to pursue this UDRP case. The WIPO Panel determined that the name 'Vega' had a particular meaning in Latin and was extensively utilized by a variety of firms for their brands, and there was no indication that the domain owner was responsive to Natixis or its sub-brand Vega before registering the contested domain. The dispute was rejected because Natixis filed it in bad faith so as to avoid having to shop for the name.

A sports networking site sued Clubhouse for trademark violation

A trademark infringement complaint has been filed against an audio-chat app. Clubhouse questioned if the firm attempted to shield its name through a US trademark.

"It's remarkable that Clubhouse, a \$4 billion corporation, has no registered trademark and appears to have never filed for registration within the US," said Christine Haight Farley, a professor at American University Washington College of Law. In keeping with court records, Alpha Exploration Co., which developed the invite-only Clubhouse app this spring, was given a summons last week. In their case, SBS Consulting Group claimed that the Clubhouse app infringed on its trademark for "TheClubhouse," a networking platform for sports business professionals. The complaint requested a trial and monetary damages.



Clubhouse
Drop-in Audio

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EU countries likely to face legal action for non-incorporating EU copyright rules in their national legislations

France, Spain, Italy, and 20 other EU countries could face legal action if they do not incorporate the landmark EU copyright rules into their national legislation, which were adopted two years ago and aim to ensure a level playing field between the EU's trillion-euro creative industries and online platforms like Google and Facebook. When the deadline for applying EU laws was June 7, the Commission stated it had written letters of formal notice to the countries group, the first step in its infringement investigations, asking for explanations. Countries who missed the deadline have been given two months to respond to the Commission, failing which they would receive a warning, known as a reasoned opinion. A referral to the EU's top court in Luxembourg is the next step.



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Poland's controversial media bill was enacted by the Polish Parliament.

This bill would prohibit non-European firms from owning or controlling Polish broadcasters, resulting in the loss of American-owned television stations. Most opposition parties, as well as the agreement party, reject the bill. The erosion of media freedom and the severance of ties with the United States, which is a key ally of Poland, are two big concerns about the Bill's passage. The administration, on the other hand, claimed that the bill would prevent Russia and China from seizing control of local media. The Senate has yet to ratify the bill.



Alibaba Group comes up with a non-fungible token relating to intellectual property

A non-fungible token (NFT) marketplace has been launched by Alibaba Group of China, which permits customers to buy and sell NFTs while also facilitating licensing and selling of IP.

Natco Pharma falls following a legal update on Ibrutinib

Natco Pharma fell 2.51% to Rs 940.85 after a US District Court ruled in favour of Pharmacyclics, a subsidiary of Chicago-based AbbVie's Pharmacyclics LLC, the brand owner of Imbruvica in an exceedingly PIV lawsuit concerning the medication. Ibrutinib, also called Imbruvica, is a cancer medication that inhibits the development and spread of cancer cells within the body. In 2018, NATCO and Alvogen submitted an Abbreviated New Drug Application (ANDA) with PIV certification for the product's generic form.



Director Producer Rick Allen filed infringement suit against state of North Carolina



Rick Allen, a film director and producer, had filed an infringement action against the state of North Carolina for exploiting his photographs and videos without his permission on the state's tourism website. On the basis of sovereign immunity, the Supreme Court dismissed this lawsuit in 2019. However, a North Carolina District Court recently resurrected Allen's initial claim, ruling that the state's actions did not violate Allen's constitutional rights, which guarantee property rights and due process.



Grande Communications sued for prohibiting users from using BitTorrent

In Texas court, a group of film producers sued Grande Communications, seeking that it prohibit users from utilising BitTorrent services to pirate films. It is accused of allowing its subscribers to use BitTorrent without limitation, failing to terminate serial infringers who have been confirmed to engage in high-volume unlawful data sharing, and generally ignoring the plaintiffs' reports. The plaintiffs are seeking an injunction to stop the continuous violation of their copyright works, as well as an order requiring Grande to suspend any customer who receives three DMCA notifications in 72 hours.

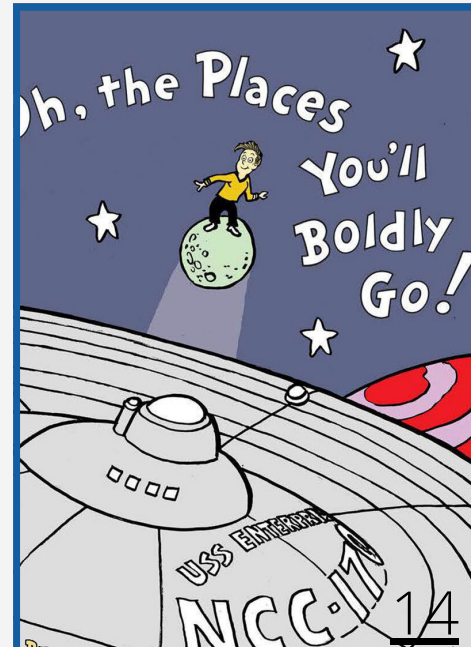


The band "The Turtles" loses legal battle over music royalties to Sirius XM Radio Inc

Sirius XM Radio Inc, the digital radio company, has won a series of legal battles with members of the rock band "The Turtles" over music royalties. According to the 9th U.S. Circuit Court of Appeals, California law does not require Sirius to pay to play music from before 1972. This victory for Sirius came after "eight years of losses in every other court." The court has heard claims from a group of copyright owners led by former members of the band.

Request for pre-trial summary judgement was dismissed in the matter of copyright infringement of Dr. Seuss/'Star Trek' mashup book 'Oh, the Places You'll Boldly Go!'

A federal judge in San Diego has dismissed Dr. Seuss Enterprises' request for pre-trial summary judgement in the matter of the Dr. Seuss/'Star Trek' mashup book 'Oh, the Places You'll Boldly Go!' that purportedly infringed on Dr. Seuss Enterprises' copyrights. The jury will decide if the mashup's "whole concept and feel " is identical to Dr. Seuss's work, according to the United States District Court. This decision was made in response to a December decision by the 9th U.S. Circuit Court of Appeals, which concluded ComicMix LLC and former 'Star Trek' writer David Gerrold violated the fair use doctrine by exploiting Dr. Seuss' work. ComicMix has already requested and been denied review of this decision by the United States Supreme Court in June.



Songwriter Andre Sims files infringement suit for his song "Endless Minds"

Songwriter Andre Sims filed a copyright infringement case in the United States District Court for the Southern District of New York in June 2020, alleging that artists H.E.R. (Gabriella Wilson), DJ Camper, Justin Love, and Sony Music Entertainment had plagiarised his song "Endless Minds." Sims filed the complaint after claiming that H.E.R. 's song "Focus" had knowingly infringed on his song "Endless Minds" without his authorization and that he had not been adequately compensated for it. Sims claimed that he wrote 'Endless Minds' in 2004 and shared it on Instagram and YouTube in 2015, after which he filed the song with the United States Copyright Office in January 2020. Sims had asked for \$3 million in damages. The lawsuit has ultimately been settled, but the terms of the agreement have not been made public.



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P V Sindhu sues 15 firms for misusing her name and image in commercials

PV Sindhu, an Indian badminton player, is suing 15 firms for exploiting her name and image in commercials without her permission, according to the sports marketing firm Baseline Ventures. Sindhu had won bronze at the Tokyo Olympics, and the infringing firms had congratulated her on her achievement in a post that included her name, photographs, and the company logo without her permission. The Rule 40 of the Olympic Charter provides that the businesses cannot promote without the authorization of the Indian Olympics Association (IOA), according to the Director of Baseline Ventures.

India requires an IP revolution in order to increase job creation and competitiveness-

Minister of Commerce and Industry Piyush Goyal while presenting the National intellectual property Awards 2020 to the winners, stated that there's a necessity for an IP revolution to reinforce job creation, quality, competitiveness, and manufacturing. "This award not only recognises the creative ideas of people and institutions, but it also acts as a source of inspiration for others," he added. He stated that the govt. regards intellectual property collectively of the foremost significant assets in India's capacity to compete within the global economy. He stated that one significant attempt during this regard has been the National holding Policy for "Creative India, Innovative India." in step with the minister, IPR filing procedures are now more concise, time-bound, user-friendly, and compatible with e-transactions



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Bristol-Myers Squibb Ireland Unlimited (BMS) won injunction in its ongoing struggle against Indian generic pharmaceutical manufacturers

Bristol-Myers Squibb Ireland Unlimited (BMS) has won a favourable injunction ruling from a single Bench in its ongoing struggle against Indian generic pharmaceutical manufacturers from releasing generic copies of its apixaban chemical, which is employed within the treatment of thromboembolic disorders. Eliquis, name for apixaban sold by BMS. Before this, the Court granted six temporary injunctions supporting suspected violation. BMS said in its appeal that while it had won an interim injunction against six businesses supporting the patent, Micro Labs had filed a revocation petition with the Court against Patent No. 247381, and also the latter had revealed its plan to market generic apixaban in June 2021. On August 16, Justice Jayant Nath issued an ex-parte ad-interim injunction prohibiting Micro Labs and people related to it from using, manufacturing, selling, distributing, advertising, marketing, exporting, or offering available any generic apixaban product under any brand, including but not limited to Apivas. The six previous rulings issued on the identical patent indicated specific reasons for issuing ex-parte injunctions in favour of BMS and against the defendants, respectively, and therefore the Division Bench failed to stay the aforementioned orders, the appeals are still continuing.



Bombay High Court puts a stay on inquiry into FIR filed by KUCB against the web series Scam 1992

The inquiry into the FIR filed by Karad Urban Co-operative Bank (KUCB) in Pune against the online series "Scam 1992: The Harshad Mehta narrative" has been stayed by the Bombay High Court. According to the FIR, the online series that broadcast on SonyLIV App defamed KUCB, and in the third episode of the web series, a logo that resembled its trademark was displayed in the backdrop, causing substantial damage to its financial, commercial, and social reputation. The makers of the web series, Sony Pictures Network India Pvt Ltd, and producer Applause Entertainment Private Limited, who had earlier moved to quash the defamation lawsuit, have been given ad-interim relief until September 17. On July 4, 2021, a FIR was filed against unknown persons under the IPC's Section 500 (defamation), the Trademarks Act's Sections 102, 107 (falsely applying for trademarks), and the Information Technology Act's Sections 66C and 43(b). The court has declared that continuing the proceedings is pointless until the investigation measures are fixed.



Bombay High Court denied the grant of mandatory injunction to Sholay Media Entertainment Pvt. Ltd.

The Bombay high court in *Sholay Media Entertainment Pvt. Ltd. v. Narendra Hirawat and Co. & Ors.*, allowed the four appeals challenging the order passed by the only Judge of the Court whereby two notices of motions taken out in the suits filed by the Plaintiff were allowed, and an injunction was granted against the Appellants. The plaintiffs within the suit had argued that the licences granted to the appellants were exclusive licences under the Copyright Act, 1957, with a special status. However, the Court noted that nothing had been shown thereto from the provisions of the Copyright Act that an exclusive licence, if given on certain terms and conditions, which are breached, can not be terminated by the owner, holding that the plaintiff had failed to establish that it had been and has always been ready and willing to perform a vital part of the terms of the contract. Thus, the Court held that the injunction granted by the single Judge was inequitable.



LaLiga

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Delhi High Court clarifies the IP over broadcasting of La Liga

The Delhi High Court in *Viacom18 Media Private Limited v. Wwww.Oreo-Tv.Com*, held that the plaintiff had invested time, effort and money in acquiring the exclusive rights in the La Liga 2021, granting interim relief to the plaintiffs, and restraining the defendants from broadcasting/ communicating, telecasting, to subscribers or otherwise, through any means, the LA Liga 2021, whether through the plaintiffs' Channels or platform or any other channel; or doing any other thing which is likely to lead to infringement of the exclusive rights of the plaintiff in the La Liga 2021



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IPAB officially buried, power now rests with High courts and Commercial court

It is an important update in the field of IPR that the Intellectual Property Appellate Tribunal (IPAB) has officially been buried. This is so because the President of India has signed on the Tribunals Reforms Act, 2021 enacted by Parliament. The enactment of this law assigns the jurisdiction of the IPAB back to the High Courts and commercial courts. These Tribunals were certainly infamous for improper functioning, lack of appointments and resources. Thus, they were recommended by Justice Prathiba Sridevan (former Madras High Court Judge) to be shut-down.



Delhi High Court gives interim relief to a Bengali actor affirming the "right to privacy" encompasses the "right to be forgotten" and "right to be left alone."

The top court has ordered that obscene films and audio samples of the actor be removed from several online platforms, including YouTube. The Bengali actor alleged in the suit that Ram Gopal Verma Studios approached her about filming a web series with obscene scenes. Despite the fact that the web series was never made, she discovered the films on the producer's YouTube channel and website in December 2020. The producer withdrew the movies from his channel and website after the actor requested it; nonetheless, some websites published the videos without the actor's permission, and some added placed unpleasant and vulgar remarks on them. The court cited a ruling by another Delhi High Court panel that stated that the "right to privacy" encompasses "inherent characteristics" such as the right to be forgotten and the right to be left alone.

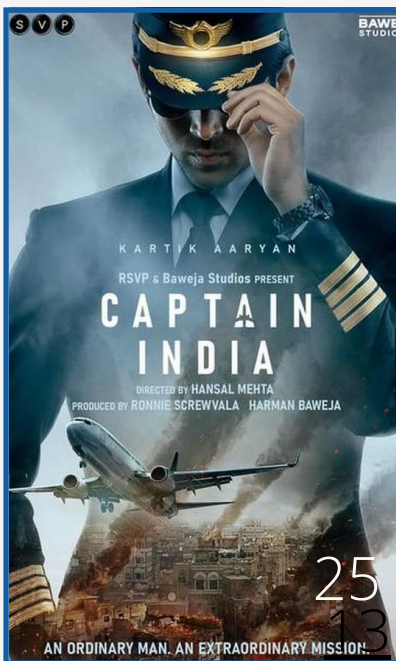
AMUL successfully gets an ad-interim injunction for its trademark infringement.

The Delhi High Court in Gujarat Cooperative Milk Marketing Federation Ltd & Anr v. Maruti Metals & Anr., granted an ex-parte ad-interim injunction in favour of the plaintiffs in a trademark infringement suit which alleged that the defendants were using a misleading mark i.e. 'Amul Cookware' for selling kitchenware and utensils, in violation of the plaintiff's trade mark in Amul.



'Operation Yemen' Producer Accuses Hansal Mehta's 'Captain India' of Plagiarism

Plagiarism complaint was filed against "Operation Yemen" producer for 'Captain India'. Kale has announced publicly that the plot of Captain India is similar to their project, as per a report by Bollywood Hungama. Captain India is helmed by Hansal Mehta. The movie under concern "Operation Yemen" is based on the 2015 movie Operation Raahat, when the Indian Army under VK Singh (Captain) released Indian citizens as well as foreign nationals from Yemen during the Yemeni Crisis.



Delhi HC grants rights to late actor Sushant Singh Rajput to file a complaint against the release of a film based on the late actor's life.

The Delhi High Court has granted Krishna Kishore Singh, the father of late Bollywood actor Sushant Singh Rajput, the right to file a complaint with a single judge against the release of the film 'Nyay: The Justice,' which is allegedly based on the late actor's life. Mr. Singh was given the opportunity to present his case before the single judge panel that had previously dismissed the interim plea for an injunction against the film's release.

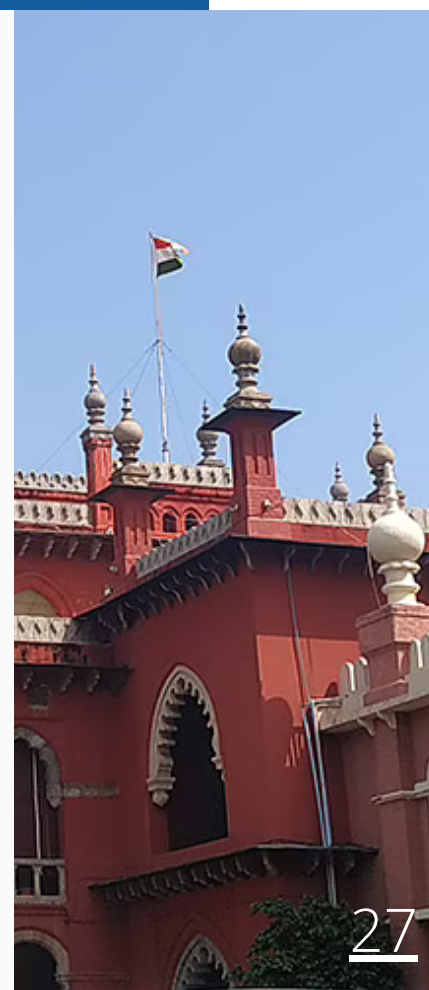


Madras High Court issues notice in plea challenging Rule 29 (4) of Copyright Rules, 2013.

The Madras High Court has given notice of a plea filed by Next Radio, a radio station, challenging Rule 29 (4) of the Copyright Rules, 2013. Rule 29 (4) refers to the information that must be provided to copyright owners prior to the broadcast of copyrighted musical works, literary works, and other content, as part of the process of obtaining authorization to broadcast such content. The information must be provided to the copyright owners five days before the proposed broadcast, according to Rule 29(1). Broadcasters can, however, provide information within 24 hours of the broadcast if any unanticipated circumstances emerge. As an interim measure, the Court has extended the time limit from 24 hours to "within fifteen days" following transmission, but only if the copyright owner has given prior consent. The court also stated that Rule 29 (4) appeared to be somewhat problematic, and that broadcasters, copyright owners, and experts may need to collaborate to alter the Rule in some areas.

Petition denied to postpone release of the film “Gangubai Kathiawadi” by Bombay High Court

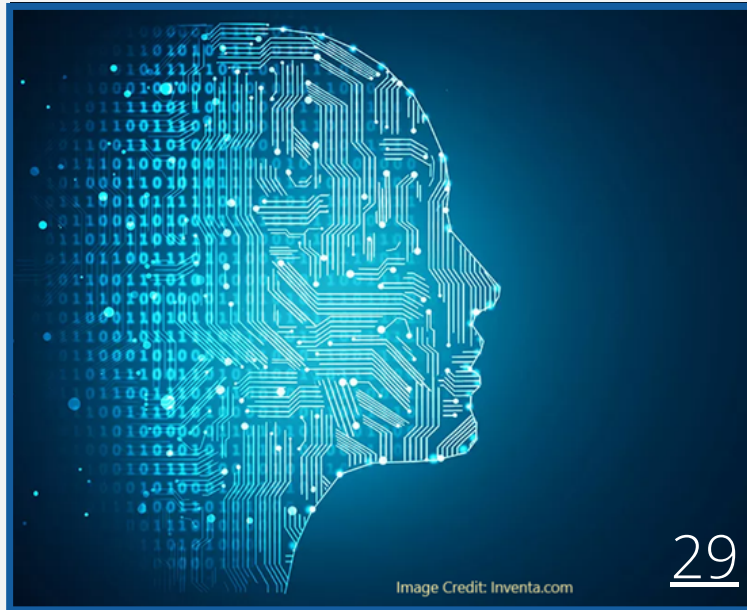
Sanjay Leela Bhansali's film "Gangubai Kathiawadi" will not be postponed by the Bombay High Court. Babuji Shah, who claims to be Gangubai Kathiawadi's adoptive son, filed a petition with the court, but it was denied. The film's and the book 'The Mafia Queens of Mumbai,' on which the film is based, are defamatory, according to Shah, and impinge on his right to privacy, self-respect, and liberty. The court ruled that a person's right to be free of defamatory materials expires when he dies. Shah also failed to prove his claim to be the son of his adopted mother, according to the court. Shah went to the High Court after his complaint was dismissed by a City Civil Court under Order VII, Rule 11(d) of the Code of Civil Procedure.



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India recognises AI as co-author in copyright work, can be a leading example.

First time in the history of India, the copyright office recognised the artificial intelligence tool named as RAGHAV Artificial Intelligence Painting App – as the co-author of a copyright in the artistic works.

Ankit Sahni, one of India's leading IP lawyers who owns this AI-based app, is the other author and is among those registered as the copyright owner. He commissioned the painting in question, 'Suryast', and has a belief that India will be a leading country and will set an example on the globe for AI as a registering country for the produce from AI.



Indian companies and multinationals culminate over taxation on copyright following Supreme Court ruling

Several multinationals and Indian technology companies are in a standoff over the applicability of tax on copyright after a Supreme Court ruling laid down that receipts made by lowest level of users for the purchase of software from foreign companies or distributors cannot be taxed as royalty.

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