

# **CENTRE FOR INTELLECTUAL PROPERTY RIGHTS**

# **NEWSLETTER**

## **JULY 2021**

# INTERNATIONAL NEWS

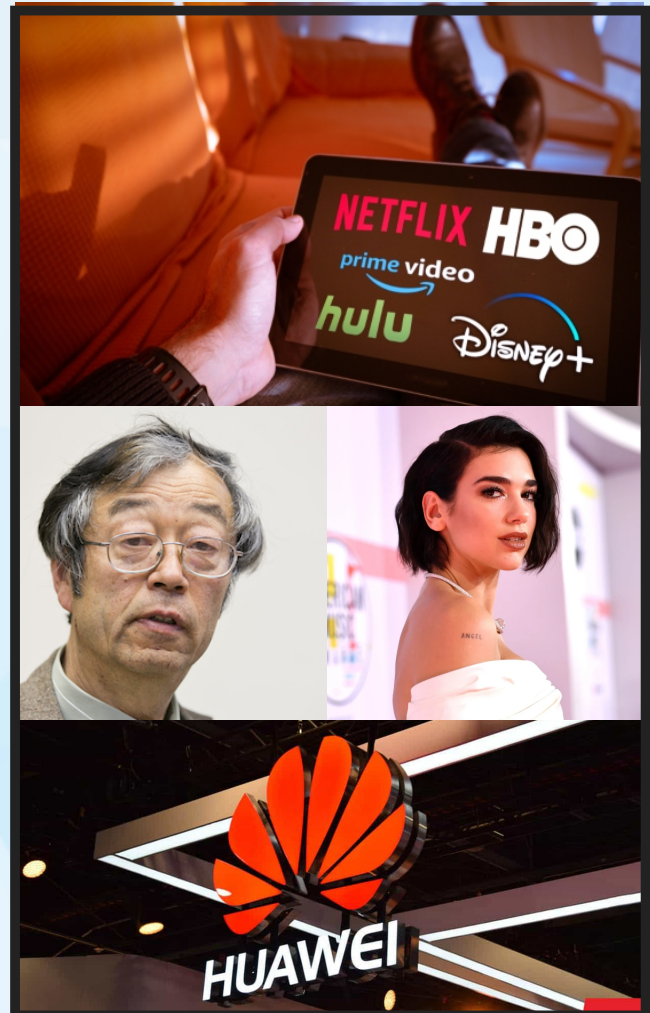


## HIGHLIGHTS OF THIS ISSUE

**THE EUROPEAN UNION'S UNITARY PATENT COURT UPHELD BY THE GERMAN CONSTITUTIONAL COURT.**

**THE KHADI BRAND GAINS WORLDWIDE TRACTION AS KVIC WINS TRADEMARK REGISTRATIONS IN THESE NATIONS**

**NOKIA HAS FILED A PATENT INFRINGEMENT LAWSUIT AGAINST OPPO**





## The European Union's Unitary Patent Court upheld by the German Constitutional Court.

The development of a single framework for awarding and enforcing patents in the European Union was finally cleared by Germany's constitutional court on Friday, eliminating a hurdle that had slowed the reform for years.

Two petitions seeking an injunction against a bill enacted by the German parliament in December to execute an EU accord struck in 2013 to establish a unified patent court were denied by the Karlsruhe court. The plaintiffs claimed that the EU-wide patent regime infringed on Germany's constitutional right to democratic self-determination, and that the 2013 accord incorrectly asserted EU supremacy over national law.

## The champagne label legislation in Russia has France in a huff.

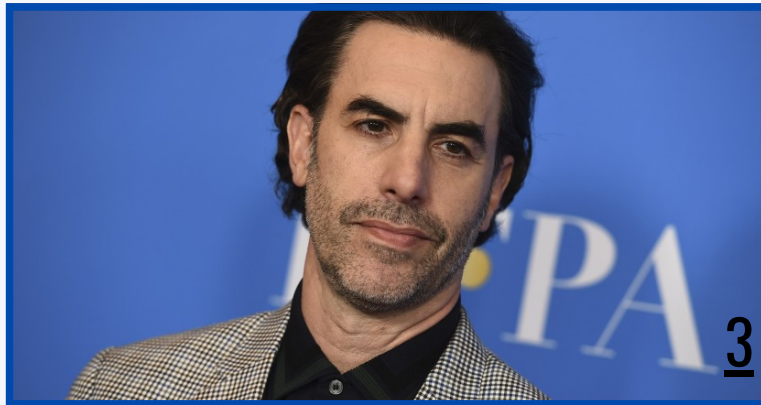
France has retaliated against a new Russian rule that requires champagne producers in France to identify their bottles as sparkling wine. Champagne in France is protected by tight regulations; it must be produced in the French area of the same name. Only local manufacturers may label their products "shampanskoye," the Russian counterpart of champagne, under Russia's new regulation. The regulation was deemed "unacceptable" by France's major champagne industry association. Foreign manufacturers of sparkling wine must designate their products as such on the back of the bottle, according to a new law. On the front of bottles, French manufacturers can still use the name champagne, but only on local produce can they use "shampanskoye." To comply with the legislation, Mot Hennessy, France's most well-known champagne producer, halted supplies to Russia over the weekend before putting the "sparkling wine" label to bottles it delivered there.



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## Sacha Baron Cohen sues Massachusetts cannabis store Solar Therapeutics over character exploitation

In federal court of Boston, actor Sacha Baron Cohen sued Massachusetts cannabis store Solar Therapeutics for allegedly exploiting an image of his character "Borat" on a billboard without his consent. The billboard's use of Borat's tagline "It's Nice!" infringes on Cohen's copyright in the character, violates his right of publicity, and constitutes misleading advertising, according to the lawsuit. Cohen has asked for a minimum of \$9 million in damages.

**GYMSHARK**

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**SONY MUSIC**

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## Gymshark, a fitness brand, sued by Sony Music for using unlicensed music.

Sony Music has filed a lawsuit in federal court in California against Gymshark, alleging that the company used copyrighted music from artists such as Beyoncé, Britney Spears, and Travis Scott in its social media video commercials. Gymshark promotes nearly solely on social media platforms such as TikTok, Facebook, and Instagram, according to the lawsuit, and has engaged in "blatant, deliberate, and persistent copyright infringement" of "hundreds" of Sony Music's most valuable recordings.



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## Nokia has filed a patent infringement lawsuit against Oppo

According to reports in the media, Nokia, a Finnish telecommunications firm, has filed several patent infringement lawsuits against OPPO, a smartphone manufacturer, for both SEP and non-SEP patents. These patents are concerning connection, interface, and security aspects, according to GSMArena, and the complaints have been submitted in European and Asian markets. In 2018, the smartphone companies OPPO and Nokia inked a multi-year licence deal, which appears to have expired



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## In a case involving the copyright for the bitcoin white paper, a UK court found in favour of a self-proclaimed Satoshi Nakamoto

A UK high court ruled that Bitcoin.org may no longer distribute the 2008 white paper that defines bitcoin on its website, giving Craig Wright, a computer scientist who claimed to have written the original document, a victory. After the website's mysterious founder, known as Cobra, decided not to speak in his defence in the hearings in London, Wright won the copyright-infringement case he brought by default. The document must be removed from Bitcoin.org's website as a result of the verdict on Monday.





## Jason tusa, a rogue copyright infringer, sued by Amazon, Netflix, and major Hollywood studios.

At a US District Court, Amazon, Netflix, and major Hollywood studios such as Warner Bros., Paramount Pictures, Sony Pictures Animation, and others have filed a lawsuit against Jason Tusa and several other pirated Internet Protocol Television (IPTV) service providers for direct and secondary copyright infringement. Tusa and the organisations under his control, according to the lawsuit, have regularly engaged in mass infringement of the plaintiffs' copyrighted works by operating unlicensed streaming services that publicly play their films and TV episodes without a licence. The plaintiffs are seeking a maximum of \$150,000 in damages for each title, as well as contributory copyright infringement in relation to the service's 24/7 channels. The plaintiffs have also requested \$150,000 per piece for willfully inciting users to infringe on copyrighted works (and by encouraging affiliates to promote the service for infringement). In addition to monetary damages, the lawsuit seeks preliminary and permanent injunctions to stop Tusa from continuing his business.



## Chris brown and Sony Music being sued for copyright infringement in connection with 2017 song

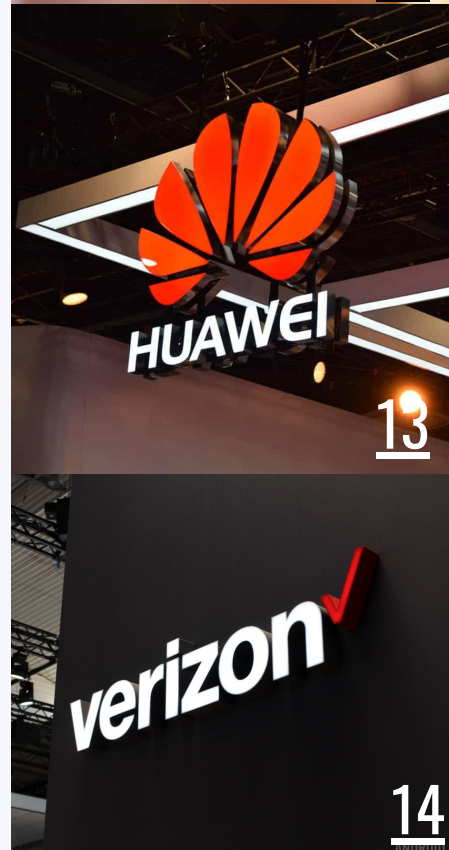
Greensleeves Publishing, a music publishing company based in the United Kingdom, has filed a copyright infringement lawsuit against singer Chris Brown, Sony Music Entertainment, and the entity Chris Brown TV. Brown is accused of stealing parts of Red Rat's 1997 song "Tight Up Skirt" for his 2017 track "Privacy." According to the music publishing company, Brown "took the core musical feature" of the song and "used it prominently" in "Privacy" without permission. Greensleeves has also accused the respondents of stealing Red Rat's song lyrics. Greensleeves is suing for more than \$500,000 in damages, as well as another \$1,000,000 for "gains, profits, and advantages" obtained by Chris Brown and Sony Music as a result of the alleged copyright infringement.



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## Huawei and Verizon Reach Mid-Trial Settlement on Patent Royalties Suits

In the midst of a federal jury trial in Texas, Huawei Technologies Co. and Verizon Communications Inc. agreed to settle two patent-infringement claims over royalties on telecommunications technologies. Both firms' representatives expressed satisfaction with the settlement, the specifics of which they stated were private. The U.S. District Judge Rodney Gilstrap granted the combined motion. In Marshall, Texas, a trial has begun in Huawei's dispute against Verizon over accusations that it is exploiting Huawei's proprietary networking technology without a licence. It was the first of two trials set for this year in connection with cases Huawei brought against Verizon, the largest U.S. mobile provider, last year. The agreement ends a long-running dispute between Huawei and Verizon, the largest U.S. telecommunications company.



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## Dua Lipa sued for tweeting a paparazzi shot of herself waiting in line for a flight.

Integral Images has filed a lawsuit against Dua Lipa for allegedly posting a paparazzi photo of herself on Instagram. The firm that owns the copyright to the photo, Integral Images, claims that Lipa was photographed by them at an airport in early 2019 and later posted the photo with her fans "without permission or authorisation," benefitting from the images because her Instagram account is "monetized." Lipa has already taken down the post, but Integral Images is still demanding \$150,000 in damages, a jury trial, and an injunction barring Lipa from engaging in any additional infringement.

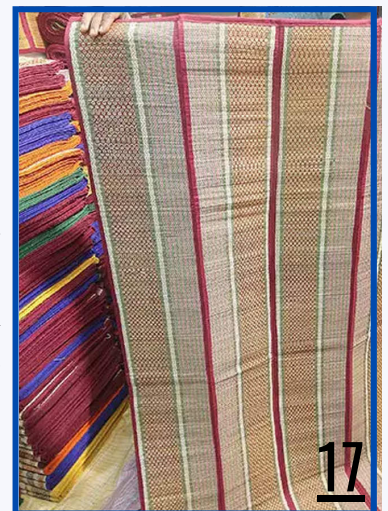


## Roche Suspends Tocilizumab Patents in LMICs following WHO Recommendation as treatment for severe COVID-19

For the length of the pandemic, Swiss pharmaceutical company Roche has halted its patent rights on the drug tocilizumab in low- and middle-income countries (LMICs) in accordance with the World Health Organization's (WHO) guideline that patients hospitalised with severe or serious COVID-19 be administered Interleukin-6 (IL-6) receptor blockers. According to a research published, the Interleukin-6 (IL-6) receptor blockers tocilizumab and sarilumab decreased the risk of mortality and ventilation when coupled with corticosteroids (JAMA).

## The Khadi brand gains worldwide traction as KVIC wins trademark registrations in these nations

The Khadi and Village Industries Commission (KVIC), the statutory body for the promotion of enterprises in khadi and village industries under the Ministry of MSME, has secured 'khadi' trademark registrations in three more countries – Bhutan, UAE, and Mexico thus, strengthening and protecting the word mark and brand 'khadi' globally. As per the MSME Ministry, such applications for similar trademarks have been pending in 40 other countries including the USA, Qatar, Sri Lanka, Japan, Italy, Australia, New Zealand, Singapore, Brazil, etc.





# NATIONAL NEWS



## HIGHLIGHTS OF THIS ISSUE

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**THE DELHI HIGH COURT ESTABLISHED AN INTELLECTUAL PROPERTY DIVISION TO HANDLE IPR DISPUTES.**

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**GI TAG SOUGHT FOR NEGAMAM COTTON SAREE**

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**PARLIAMENTARY STANDING COMMITTEE RELEASES “REPORT ON REVIEW OF IPR REGIME IN INDIA”**

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## HC prohibits Natco Pharma from manufacturing insecticides that infringe on FMC Corporation's patent

The Delhi High Court rejected the defendant's effort in this case regarding the award of interim injunctions involving a patent relating to "Chlorantraniliprole" (commonly known as CTPR) based on many grounds under patent law. During the pendency of the case, the Court refused to allow the defendant to produce and sell the insecticide. In reaching its decision, the Court noted that the defendant had failed to establish a credible challenge to the patent validity's weakness. The Supreme Court's decision in Novartis, the Court observed, does not declare that disclosure is equal to claim coverage, but rather that there cannot be a substantial gap between the two. The Court further noted that the inclusion of a compound in a claim does not automatically render the specific patent vulnerable to challenges based on anticipation, prior claiming, obviousness, or Section 3d. It then went on to mention several guidelines for determining the patentability of selection patents, in this case equating selection patents to species patents.

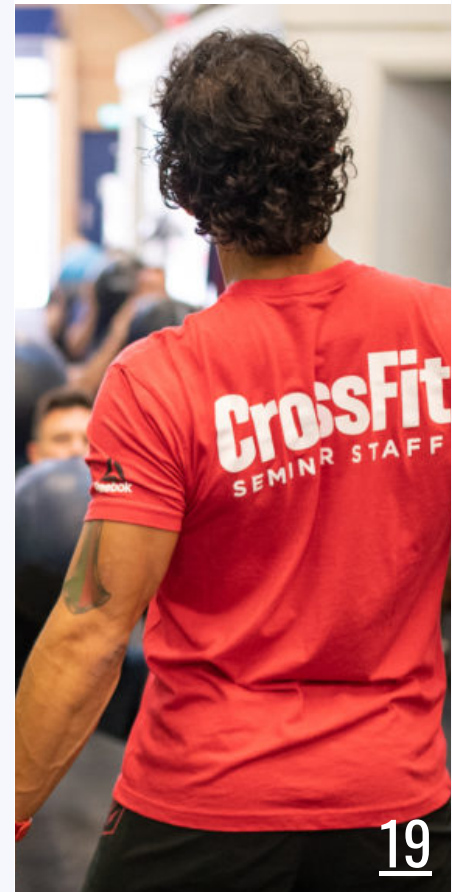


Natco Pharma Limited

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## Cross Fit Llc v. Mr Renjith Kunnumal & Anr

In this case, the plaintiff has a registered mark "CrossFit" a and domain name [www.crossfit.com](http://www.crossfit.com) for fitness training services. The defendant started using "SFC CROSSFIT" for similar services and advertised it on social media and their website [www.sfccrossfit.com](http://www.sfccrossfit.com). The Delhi High Court noted that "CrossFit" was entitled to stronger protection as it has no known etymological significance. The Court granted an interim injunction against the defendants, prohibited them from using their mark or any other mark/logo identical or deceptively similar to the plaintiff's mark in the course of business, offline or online. They were ordered them to take down their website and domain name [www.sfccrossfit.com](http://www.sfccrossfit.com) and all listings, posts, pictures etc. from all sites on the internet including their social media webpages.



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## Astrazeneca Ab v. Intas Pharmaceuticals Limited

Astrazeneca filed a suit against 9 India pharma companies for infringement of Astra's type II diabetes compound dapagliflozin (DAPA) seeking a permanent injunction prohibiting them from making or selling drugs containing DAPA. Astra argued it had two Indian patents and "Patent 625" was especially for DAPA. The defendants argued that Astra's patent lacked inventive steps and their terminal disclosure with the USPTO confirmed that DAPA was actually protected by their genus patent in the US. A comparison of Astra's patents '147 and '625 indicates lack of significant technical advancement or economic significance to qualify DAPA as an "inventive step" under Section 2(1) (ja). The terminal disclaimer with the USPTO operates as estoppel by conduct, even if it is not a complete bar. Hence, Astrazeneca's request for an injunction is denied.



## Aman Chhabra And 7 Ors v. Trac Entertainment Pvt Ltd And 6 Ors.

The Appellant challenged the Single Judge's ruling revoking an interlocutory consent order prohibiting the Respondents from commercially exploiting the songs in this dispute regarding the copyright of two music videos, "Pyar Ko Na Kaho" and "Lutti Heer." On appeal, the Division Bench overturned the Single Judge's decision, holding that the Appellants should be given opportunity to fight the Respondents' interim plea to vacate the interlocutory consent order. This is necessary since numerous of the circumstances that led to the vacation were debatable and should have been reviewed by the Single Judge. The Division Bench also noted that because the Respondents' attempts to commercially exploit the songs yielded no financial returns, and because the songs can be removed from the platform, Believe International, at any time, no third-party rights have been created, and thus the interlocutory consent order may remain in effect until the Single Judge decides the case after hearing the pardon application.



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## The Delhi High court established an intellectual property division to handle ipr disputes.

The Delhi High Court has established an Intellectual Property Division (IPD) to handle Intellectual Property Rights cases (IPR). This decision was made in light of the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021, which resulted in the abolishment of several boards and appellate tribunals, including the Film Certification Appellate Tribunal (FCAT) and the Intellectual Property Appellate Board (IPAB). The IPD handles original proceedings, Writ Petitions (Civil), CMM, RFA, and FAO on IPR disputes, with the exception of those that must be handled by the Division Bench. The decision to establish the IPD was based on the recommendations of a committee chaired by Delhi High Court Chief Justice D N Patel and consisting of Justices Prathiba M Singh and Sanjeev Narula, who filed their report on both IPR and non-IPR subject statutes.



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## Ravi shankar's wife granted interim injunction by the thiruvananthapuram district court

Priyanka, the widow of late Kuchipudi maestro Vempati Ravi Shankar, filed the suit in Thiruvananthapuram District Court against several unidentified entities claiming to practise Kuchipudi and who have been misappropriating and misusing the title 'Vempati Ravi Shankar' as well as his copyrighted works by communicating to the public the original sound recordings, without any authorization or permission from Priyanka. These works have been shared on several social media platforms such as YouTube, Facebook, and Instagram. The court granted Priyanka interim relief after she claimed she had copyright to her late husband's works and ordered Facebook to remove the infringing content.

## The Maadhyam site is designed to make doing business easier

India will launch a national single window system for domestic and international investors to file for 560 regulatory approvals online. It includes permission to start a fuel retail business, register a copyright, obtain a permanent exporter licence, set up a unit in a special economic zone (SEZ), etc. It would involve three three steps: filling out a "know your approval" (KYA), applying for approvals using a single interface, and monitoring the process in real time. It is also linked to the single-window systems used by the several states.



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## Amazon launches IP Accelerator programme in India

Amazon announced an Intellectual Property Accelerator (IP Accelerator) programme in India, to make available the access to IP specialists and legal firms to the sellers (who are also brand owners). It is applicable on small and medium-sized merchants on Amazon.in and Amazon websites worldwide. This program already operates in the United States, Europe, and Canada. The program will help firms secure their intellectual property and ensure a genuine purchasing experience to its consumers as well.

## GI tag sought for Negamam Cotton Saree

Several weavers from 15 cooperative societies applied for the Geographical Indication (GI) badge for the Negamam Cotton Saree and the State government's Director of Handlooms and Textiles aided with the application process. The saree is recognised for its thickness, which ranges from 86 to 90 picks per inch (PPI) and also its length, contrasting colours, durability, multicolor thread work in designs, thread work on border.



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## ISKCON declared a well-known trademark

The International Society for Krishna Consciousness (ISKCON) has been declared a "well-known trademark" under the rules of the Trade Marks Act, 1999 by the Bombay High Court. The ISKCON officials had filed for a permanent injunction against Iskcon Apparel Private Limited, for infringing its registered trademark and the High Court certified it to be well-known. The defendant changed its name to Alcis Sports Private Limited and agreed not to use ISKCON's name again.

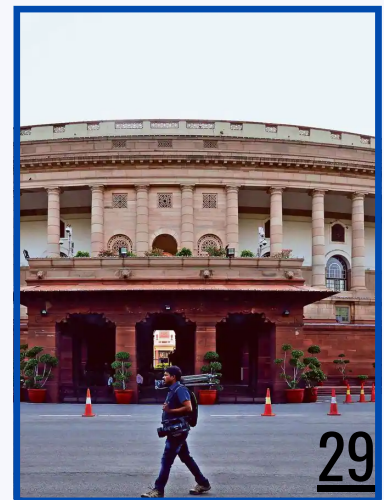


## Maharashtra cyber arrests thop tv's founder for content piracy against viacom18.

Satish Venkateshwarlu, the CEO of the Thop TV app, was arrested by the Maharashtra cyber nodal cell for alleged copyright infringement and illegally streaming and transmitting TV channel content, causing broadcasters to incur significant losses. Multiple complaints were filed against the app for unauthorized access to films, shows, and live sports on television, as well as video-on-demand content. Satish has been charged with cheating under the Indian Penal Code (IPC), as well as some of the relevant sections of the Information Technology Act and the Copyright Act.

## Parliamentary standing committee releases “report on review of IPR regime in india”

The Department Related Parliamentary Standing Committee on Commerce recently released the 161st Report on 'Review of the IPR Regime in India'. It presents an analysis of the existing IPR regime in India and how it has contributed in promoting innovation and entrepreneurship. The report recommends, re-assessment of IPR policy, 2016, take steps to encourage IP financing, inclusion of state governments to frame a strong IP policy for each state, revival of IPAB, need for a separate framework for trade secrets.







*Hindustan Unilever Limited*

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## Hindustan Unilever Ltd v. Shri Mahaveer Jain Industries

The Bombay High Court highlighted the defendant's acceptance of the plaintiff's intellectual property in its distinctive original artistic creation, i.e., "Elle 18 face" utilised in relation to the plaintiff's nail polishes, in Hindustan Unilever Ltd v. Shri Mahaveer Jain Industries. The defendant agreed to the Court's indefinite injunction prohibiting him from infringing on the plaintiff's challenged mark. The Defendant affirms and undertakes that they have not submitted any trademark/copyright application, have no trademark/copyright registration, and will not file any application with the Registrar of Trademarks and/or Registrar of Copyrights seeking registration of the impugned artwork.



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## India's patent on intravenous paracetamol is revoked by Venus remedies after battling a French pharmaceutical company

The Indian Patent Office ruled in favour of Venus Remedies in a judgement dated June 4, 2021, and affirmed its decision to revoke the Indian patent on the grounds that the procedure lacked any creative step that made it superior to other existing alternatives. Venus's opposition was meant to remove any Indian patent barriers to intravenous paracetamol solution manufacture in India. The revocation of this patent is a positive outcome for the healthcare industry in the country grappling with the present epidemic, as intravenous paracetamol plays a key role in controlling inflammation and fever.



## The Delhi high court refused to halt the release of 'nyay: the justice'

The division bench of the Delhi High Court has refused to issue any order preventing the further distribution of the film 'Nyay: The Justice,' which is allegedly based on the life of late actor Sushant Singh Rajput. The court denied the late actor's father Krishna Kishore Singh's request to prevent the film from being released on other digital platforms until the appeal was resolved. Mr Singh filed an appeal against a single-judge order that refused to prevent the producers from using the actor's name, caricature, and/or likeness in the film. As per the single judge, there was no violation of privacy as information about the actor's death was already in the public domain and he was a celebrity hence publicity rights cannot be exercised either.



## The supreme court temporarily prohibits the makers of 'wild karnataka' from selling or broadcasting the film

The Karnataka High Court has barred the makers of the documentary 'Wild Karnataka' in any way until August 3, 2021. The court's interim order prohibits the filmmakers from "publishing, reproducing, broadcasting, telecasting, marketing, selling, distributing, exhibiting, or otherwise dealing with the film Wild Karnataka, including the raw footage." The interim order came during a hearing on a petition filed by Ravindra N Redkar and Ullash Kumar RK. The petitioners alleged that the film was commercialised and that the Karnataka Forest Department (KFD) was cheated out of its rightful share of revenue and copyright mandates. The respondents have been served with notices from the court, with a deadline of August 3, 2021, to respond.





## The delhi high court ordered rogue websites and cable carriers to stop broadcasting the tokyo olympics without permission

On a petition filed by Sony Pictures Networks India, the Delhi High Court issued an ex-parte interim order prohibiting unlicensed broadcasts of the upcoming Tokyo Olympics by multiple rogue websites, multi-system operators, and local cable companies. Sony has announced that it is the sole broadcaster of the Tokyo Olympics, having obtained an exclusive licence for exploitation and media rights. The court has directed internet service providers (ISPs) to block access to these websites that illegally broadcast games on their platforms and has asked the Central government to issue necessary notifications directing various ISPs to block access to these rogue websites. The court issued summons in the plea and asked the defendants to respond within four weeks.





## Merck Sharp and Dohme Corp. & Anr. v. SMS Pharmaceuticals Ltd.:

Sitagliptin is a patented drug of Merck Sharp in India upto 5th July, 2022 and it was alleged that SMS Pharmaceuticals Ltd. (Defendant) infringed it by advertising sale of Sitagliptin Hydrochloride. The Court granted an ex-parte interim injunction to prohibit use of Sitagliptin, in October, 2020. Now, SMS sought vacation of interim injunction, claiming that the usage of the patented subject was only for research purpose and after expiry of patent, the generic variants of Sitagliptin can be made available in the market without any delay. The Court held such use to be a Bolar Exemption as protected under Section 107A of the Patents Act.



## Praba's V Care Health Clinic v. M/S I-Care Aesthetic Clinic:

The plaintiff has a registered trademark 'V Care,' on the limitation that the word "care" will have not protection. The defendant started a business in the same goods and services with the trademark "I Care" and hence was sued by the former for infringement. The Court held that both marks were dissimilar and were not likely to cause any confusion. It was held that the word "CARE" is a common term and is publici juris over which no one can claim proprietorship. The mark cannot be dissected and must be compared as a whole. Furthermore, there was no similarity between both the marks and hence, the defendant was not liable for infringement.



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