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# GNOSIS

*Victoriam Legalis - Advocates & Solicitors | Newsletter*



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We here, at Victoriam Legalis, believe in continuous learning and growth, and agree that one way to do the same is to keep up with the developments and changes taking place around us.

We live in an Information Age, and while there is no dearth of knowledge and information, we, through this newsletter, hope to give you a consolidated account of relevant updates and developments.

In light of the same, we present to you the first issue of our newsletter, which we hope, you find beneficial!

Happy Reading!



# Media and Entertainment

## **1. #EmpowerHerMusic: IPRS eyeing community outreach and fostering a community of women creators with a new initiative.**

The Indian Performing Right Society (IPRS) has launched an initiative aimed at enhancing outreach for women so as to build a level playing field for those aspiring to build a career in music. The #HerMusic initiative also included, inter alia, a song writing bootcamp, the art of music composing and other sessions to provide an insight to budding musicians and artists.

## **2. Amazon to help businesses with securing trademarks in India: IP Accelerator Programme launched.**

E-commerce giant, Amazon announced that it will providing sellers, brand owners facilities to engage IP law firms to help them secure trademarks as a part of its IP Accelerator programme in India. This initiative will help sellers, brand owners, especially small and medium sized sellers to protect their brands and tackle infringement on Amazon.in and other Amazon websites across the globe.

## **3. Parliamentary Standing Committee Releases its Report on the Review of the Intellectual Property Rights Regime in India**

The Department Related Parliamentary Standing Committee on Commerce, Parliament of India, Rajya Sabha has published the 161st Report on the Review of the Intellectual Property Rights Regime in India. Inter alia, the Report emphasizes on the contribution of IPR in economy and also highlights the recommendation that the State Governments should actively participate in evolving policies that focus on sensitizing people on significance of IPRs, encouraging innovation and establishing State Level Innovation Councils.

## **4. KVIC secures trademark registrations in Bhutan, UAE and Mexico: “Khadi” going global**

Aimed at strengthening the protection of the brand KHADI on a global level, Khadi and Village Industries Commission (KVIC), the statutory body under the MSME Ministry has secured Khadi in 3 more jurisdictions namely Bhutan, UAE and Mexico. Applications for trademark registration have been filed in 40 other jurisdictions as well which are pending as of now.

## **5. Cyber Crime Alert: Fake copyright complaint notices with malware and malicious links being sent to Facebook users by hackers.**

A recently uncovered scam reveals that cyber criminals are now sending out fake copyright complaint notifications to Facebook users with links that are malicious and potentially harmful of the users' computer systems. Tagging Members of Parliament, MLAs and government officials is a tactic being used by these cyber criminals who intend to drop malware in the computer of users who click on such notifications.





# Technology and E-Commerce Updates

## 1. SoftBank-backed Snapdeal weighs \$400 million IPO

Indian e-commerce retailer Snapdeal Pvt is considering an initial public offering that could raise about \$400 million, joining a growing list of startups preparing to tap capital markets as the nation's digital economy booms. The company, which counts SoftBank Group Corp. among its investors, is speaking with advisers about a potential listing in Mumbai that could value it at as much as \$2.5 billion. Four years ago, Snapdeal walked away from a potential merger with Flipkart, which would have united the two local-e-commerce companies against Amazon. Since then, Flipkart sold a controlling stake to Walmart Inc. and is now progressing towards its own IPO.

## 2. PhonePe enters into India's retail insurance sector

PhonePe, India's second largest digital payments company, has been issued an Insurance Broking licence from the Insurance Regulatory and Development Authority of India, allowing the company to roll out insurance products to millions of consumers across India. Last year, the Bengaluru-based fintech startup had entered the insurtech sector with an insurance corporate agent licence, which allowed the company to partner with only three insurance companies per category i.e., health, life and general. With this direct broking license, the company can distribute insurance products from all insurance companies in India.

## 3. Amazon enter into pact with Gujarat government to drive e-commerce exports

Amazon India it has entered into an agreement with the Industries and Mines Department of Gujarat government to help drive e-commerce exports from the state. As part of the MoU (Memorandum of Understanding), Amazon will train and onboard MSMEs from the state on Amazon Global Selling, enabling them to sell their unique Made in India products to millions of Amazon customers across over 200 countries and territories. Amazon Global Selling helps companies launch their brands globally using the e-commerce major's platform.

## 4. Twitter May Soon Let Users Add Bitcoin, Ethereum Addresses to Their Profiles for Tips

Twitter is found to be working on allowing users to add Bitcoin and Ethereum addresses to their profiles to receive tips in cryptocurrencies. The new addition could be aimed to upgrade the Tip Jar feature that the microblogging network introduced earlier this year. Twitter is working on the ability to let users receive tips in Bitcoin through the Tip Jar feature.





# Fashion & Sports Law Updates

## 1. Shoppers Stop joins hands with Accenture to accelerate digital commerce transformation

Shoppers Stop, a retailer of fashion and beauty brands, has collaborated with Accenture to accelerate its digital commerce transformation across multiple retail channels. With Accenture's help, the company stated it is strengthening its digital platform with real-time data and analytics across the value chain – from customer experience and supply chain operations through to sales and last-mile delivery.

## 2. Fashion house Dior signs two-year collaboration with soccer club PSG, to design their official wardrobe

Paris St Germain have signed a two-year partnership deal with fashion house Christian Dior. Dior would design their official wardrobe, and that the partnership marked the first time Dior had signed a deal in this way with a sports club. Kim Jones, artistic director of Dior men's collections, had designed a series of new creations for the PSG team for the next two seasons, added PSG. Until the Dior deal, PSG had a clothing partnership with Germany's Hugo Boss. PSG have one of the most potent attacking forces in club soccer, with new signing Lionel Messi linking up with Brazil's Neymar and French striker Kylian Mbappe.

## 3. Delhi court restrains manufacturer from using Gucci's logo on products, pay damages

A Delhi court has restrained a city-based manufacturer from using the logo of international luxury brand Gucci on its products and directed it to pay damages to the tune of Rs 2 lakh and Rs 1.66 lakh as costs. The Italian luxury fashion house based in Florence had moved the court seeking to restrain Shipra Overseas owned by Intiyaz Sheikh from infringing its trademark and copyright with regard to "socks".

## 4. BCCI to ratify sexual harassment policy

The BCCI will ratify its Prevention of Sexual Harassment Policy and deliberate on the much-delayed compensation package for domestic cricketers at its Apex Council meeting to be held on September 20. Until now, the board did not have a specific policy to deal with complaints of sexual harassment. It had formed an internal committee after sexual harassment allegations surfaced against then CEO Rahul Johri, who eventually resigned.





# Corporate & Commercial Law Updates

## 1. RBI Data Storage Guidelines

New guidelines proposed by the Reserve Bank of India (RBI) prevents payment aggregators and merchants like Amazon, Flipkart and Netflix from storing the information credit or debit card used by the customer on their servers or databases. The new guidelines states that customers with debit cards or credit cards will now have to punch in their 16-digit card number in order to make a payment. This aims to secure the information and make sure that payment gateways are not storing any data. If the changes go through as expected in January 2022, it will be best for customers to remember their 16-digit credit or debit card numbers as it will be easy for them to shop online.

## 2. Taxes on fuel trigger worry at RBI policy panel's meet

The government's attempt to pass the increases in global crude oil price to consumers, but prevent corrections through higher taxes, has raised concerns on inflation among the Reserve Bank of India's (RBI's) monetary policy committee (MPC) members. High domestic price of fuels has triggered worries over stubborn price pressures and there have been demands to reduce taxes to help calm prices of petrol and diesel across the country. While retail inflation has shown some signs of moderation in July, wholesale price inflation continued to remain in double digits for the fourth consecutive month. Stubborn inflationary pressures have prompted the RBI to pause its rate-cutting cycle, although it has promised to keep an easy stance to help support growth and nurse the economy to a high growth trajectory.

## 3. Sebi proposed T+1 settlement cycle from January 1

The Securities and Exchange Board of India has made it optional for stock exchanges to offer T+1 settlement on stocks traded on their platform along with the current system of T+2 settlement. The new rule will come into effect from January 1, 2022, the capital market regulator specified in its latest circular. The previous change to the settlement regime in the stock market was made in 2003 when Sebi cut the settlement time for buying or selling of securities on the bourses to two days after the transaction occurred from three days earlier.

## 4. Indian 1 Payments files IPO papers with SEBI

India1 Payments Ltd, formerly known as BTI Payments, filed preliminary papers with Sebi to raise funds through an initial public offering (IPO). The initial share-sale comprises fresh issuance of equity shares worth Rs 150 crore and an offer for sale (OFS) of 10,305,180 equity shares by promoters and investors, according to the draft red herring prospectus (DRHP). The OFS consists of sale of 1 lakh equity shares by the Banktech Group, up to 25.08 lakh equity shares by BTI Payments.





# Hospitality & Real Estate

## **1. Hotel Association of India submits recommendation for revival of industry to Union Tourism Minister**

HAI met the Union Minister to Culture, Tourism and Development of North East Region to apprise the Hon'ble Minister of the status of the industry in wake the severe impact of the ongoing plan. Extension of moratorium, one time loan restructuring and other policy changes were recommended by HAI for the revival of hospitality industry.

## **2. IATA Travel Pass – Etihad Airways’ Solution for management of COVID 19 related documents**

Etihad Airways in its effort to implement digital solutions to simplify travel experience in the pandemic times, has made IATA Travel Pass available for flights between Abu Dhabi, Bangkok, Barcelona, Geneva, Madrid, Milan, New York and Singapore allowing one-stop platform for management of all COVID 19 related documentation.

## **3. Anarock in collaboration with G Square Solutions to launch ASTRA – a proptech solution to boost housing sales**

Housing brokerage firm Anarock along with its data analytics partner G Square Solution, aim to launch ASTRA a machine learning and AI based solution for boosting of housing sales to be used by developer clients and builders.

## **4. Chief Minister’s Relief Fund to be used to provide financial relief to stakeholders of the tourism industry in Uttarakhand**

The government of Uttarakhand has announced financial assistance for various tourism industry stakeholders for which the Chief Minister’s Relief Fund would be used. The benefits announced include, inter alia, financial assistance to boat operators of Tehri lake, exemption in license and renewal fees for businessmen of rafting and aero sports and many other benefits.

## **5. Federation of Associations in Indian Tourism and Hospitality emphasizes on significance of tourism to India’s forex generation and GDP**

At the virtual meeting of FAITH, the policy federation of all the national associations representing the complete tourism, travel and hospitality industry of India (ADTOI, ATOAI, FHRAI, HAI, IATO, ICPB, IHHA, ITTA, TAAI, TAFI), the significance of tourism for creation of India’s soft power, jobs, economic growth and for other development prospects was emphasized. The need for state level and national level strategy measures for revival of tourism industry was also highlighted in the virtual meeting.





## Litigation & Dispute Resolution

### **1. "Trial court has no authority to question High Court order:" Bombay HC pulls up Trial Court for not releasing accused on bail despite HC order**

The Bombay High Court reprimanded the Trial Court observing that the Trial Court has no authority to question the order passed by the High Court terming it as a serious breach of the order. In the present case, the Trial Court refused to release the Applicant/Accused from the custody despite express direction to that effect of the Bombay High Court stating that the High Court has failed to record section 302 of the IPC which was one of the charges against the Applicant/Accused. Justice Kotwal observed that the Trial Court has failed to act on the express directions High Court seriously affecting the right of the Applicant/Accused at the earliest

### **2. Once police arrest the accused, judges have to be available to hear bail pleas; non-availability of judge invades liberty: Allahabad High Court**

The Allahabad High Court entertained the bail plea in the first instance on grounds of non-availability of Judgeship at Aligarh District Court. The Applicant in its bail application stated that Aligarh District Court was not accepting any kind of application due to Covid 19 Lockdown in place. The High Court further observed that it is a burden of avoidable work but also has put the citizen in rigorous hardship for securing justice.

### **3. Ahmedabad: Gujarat Maritime Board (GMB) has decided to open up a Gujarat International Maritime Arbitration Centre (GIMAC) at Gujarat International Finance Tec-City (GIFT City) in Gandhinagar.**

A Memorandum of understanding for the same was signed between (GMB) and International Financial Services Centres Authority (IFSCA). GIMAC shall exclusively focus on the regional maritime dispute thereby facilitating faster dispute resolution resulting in economic benefits and ease of enforcing contracts for the regional maritime fraternity, which currently depends on international centres for their dispute resolution needs.

### **4. Delhi High Court directs Saket Gokhale to delete allegedly defamatory tweets against Lakshmi Puri**

The Delhi High Court observed that the tweets of Saket Gokhale calling Lakshmi Puri (former Indian Assistant Secretary to UN) calling black money hoarder in respect of disproportionate assets allegation to be prima face defamatory true. The High Court has directed the RTI activist Saket Gokhale to delete the allegedly defamatory tweets within 24 hours failing which Twitter shall be directed to take down the same. The Court further observed that preliminary investigation of the facts must be conducted before posting material on Social media.

### **5. No Place for Religious Fanaticism, Greed & Fear In Country: Allahabad HC Denies Bail To Man Accused Of Unlawfully Converting Woman To Islam**

The Allahabad High Court has denied bail to the Applicant accused of unlawful converting a Hindu girl to Islam. The Court in its order observed that the Applicant was already married and converted the victim by making her sign on the Urdu papers by preparing a fake Nikahnama. The Applicant after the alleged nikahnama mentally, physically abused her. The victim on getting the opportunity informed the police about the brutality of the Applicant.



## **6. Sourav Ganguly moves High Court for enforcement of 2018 arbitration award**

Sourav Ganguly initiated an execution proceeding for the enforcement of the award against his former management companies for breach of the player representation agreement. The dispute arose between the parties when the agreement was terminated and Mr Ganguly invoked the arbitration clause that led to an award in favour of Mr Ganguly. The total amount under the award is required to be paid by the management companies is more than 36 Crores Rupees.

## **7. Vienna International Arbitral Centre launches new investment arbitration and mediation rules**

The Vienna International Arbitral Centre has brought into effect from 1st July 2021 new investment arbitration and mediation rules for adjudication of the dispute between the investor-state dispute of lower value. Under the said rules there is no objective jurisdictional requirement as to the parties or nature of the dispute, therefore it is thus to the parties to resolve the dispute under these rules. Furthermore, the parties may apply to the tribunal for early dismissal of claim or defence is manifestly is void of jurisdiction, inadmissible or without legal merits.

## **8. Two Saudis join international arbitration court**

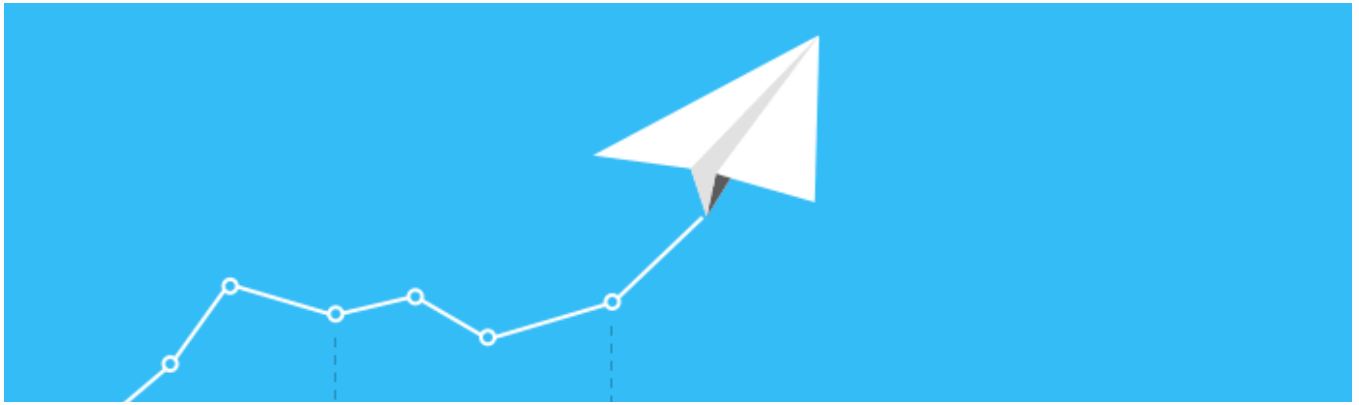
The International Court for Commercial Arbitration has newly appointed Dr Khalid Al-Nowaiser and Hussam Al-Hujailan as his deputy from Saudi Arabia. The ICCA is operated under the umbrella organization of the International Chambers of Commerce. The members of ICCA are appointed for the term of 3 years ICC World Council on the recommendation of ICC national committees or groups.

## **9. India becoming a hub of international arbitration will also promote ease of doing business: Kiren Rijju**

Law Minister Kiren Rijju emphasized the need of making India a hub for international arbitration. In an interaction with officers of the Department of Legal Affairs and Legislative Department, he said that to meet the required goal, the Arbitration Council of India and New Delhi International Arbitration Centre should be established at the earliest. The Law Minister further stated that effort in this direction shall help the country in promoting the environment for ease of doing business.







## Start-Up Advisory & Consultancy

### 1. First Solar plans to invest \$684M to set up solar manufacturing facility in India

The First Solar is planning to invest around 5000 Crore (\$ 684 Million) fully vertically integrated photovoltaic (PV) thin-film solar module manufacturing facility in India. The advance facility is expected to commence in the second half of 2023, pending regulatory approval of Government of India. The First Solar is known for not using crystalline silicon (c-Si) semiconductor in their solar panels and is also known for not manufacturing in China. The spoke person of the First Solar said that India's comprehensive approach has created conducive environment for non - Chinese solar manufacturer to compete on their own merits.

### 2. OfBusiness raises \$160 Mn led by SoftBank at \$1.6 Bn valuation

The B2B e-commerce Start-up has in its new round has raised around \$ 110 Million from Softbank and existing investor Alpha Wave Incubation. Following the transaction Softbank has acquire 9.62% stakes in the company while Alpha Wave has increased its stakes to 10.62%. Following the fresh round, the start-up has ranked 18th unicorn of 2021. The company built a strong portfolio with Godrej, Zomato, Reliance easing the process of agri-supply chain in its 7 years of business.

### 3. Ixigo raises \$53M from GIC, Infoedge, others in pre-IPO funding round

Leading travel application Ixigo has raised \$53 Million through issuance of primary and secondary shares from investors led by Singapore based sovereign mutual wealth funds, ahead of its initial public offering. Ahead of its initial public offering the company has raised its authorised share capital from Rs 30 Lakhs to Rs 50 Crore. Ixigo has thrived throughout the pandemic and managed to grow despite decrease in turn over by half in Hospitality and travel sector in FFY 2-20-21.

### 4. ShareChat raises \$145 Mn at a valuation of \$2.88 Bn

Moholla Tech which operates shareChat and Moj Application has raised \$145 Millions in fresh round of series F led by Temasek, Moore Strategic Ventures and Mirae-Naver Asia Growth Fund. As per the company the fresh investment is beyond \$ 506 Million raised in April 2021, raising in total \$ 911 Million to date. The company in their press release stated that additional investment shall be prioritise for building AI feed, attracting and incentivising its content creator.





## Moment Marketing In India: A Reality Check For Brands

- Ananya Gupta

Moment marketing seems to have taken the limelight again amongst various agencies in the marketing sectors due to the Tokyo Olympics 2021. Moment marketing is literally nothing but gaining edge through latest developments or events to deliver relatable and spontaneous advertisements in order to increase the engagement/interactions with the consumer towards a product or service of a brand. Brands keep experimenting with some or the other marketing techniques but with time they have realised that moment marketing helps reach the target consumer base in short span of time at a decent cost, much lower than the usual advertising cost. There are so many brands that always stay abuzz with the latest happenings and try to incorporate such events in their advertising, some of the popular brands being Netflix, Amul. Netflix constantly stays in trend in India by way of its quirky and catchy tweets that helps promote the brand as per the ongoing situation. Amul on the other hand, is one of the best examples for moment marketing. Amul has been coming up with beautiful illustrations that connect with audience onto a different level which are not only informative but effective for its promotion like its latest illustration on the sensitive situation of Afghanistan and the rescue operations undertaken for evacuation of people of Indian embassy etc. Such marketing has helped Amul stay relevant throughout. Moment marketing has been the most efficient and effective way for brands to top the trending charts and this digital age has made it much easier. Now, brands come up with various campaigns, posts to attract more engagement but what brands have failed to understand are the legal implications that come up with marketing.



The recent example of such implications is the case of famous badminton player PV Sindhu at the Olympics. PV Sindhu brought laurels to India by winning a bronze medal at the most prestigious tournament of the world but the most interesting take is of the brands who did not waste a single moment to jump onto the utilization of such developments for promotional purposes. The brands by congratulating her, decided to go along the ride with the sports star's success. Brands have been doing this for years just to stay in the conversation and grab eyeballs through the relatable advertising. In doing such marketing, they have used individual's names and likeliness to make the most of such trends and the case of PV Sindhu is a classic example of the same. However, PV Sindhu had an objection to the way her name was being used by brands. PV Sindhu is managed by the sports marketing agency Baseline Ventures. Baseline ventures slapped legal notices on around 20 such companies who associated PV Sindhu with their brands without her authorisation and is now, seeking damages from brands.

#### **Rules/regulations for such marketing in the given case**

- There are various rules and regulations in place that govern the intellectual property of the Olympics and the participating players. One of them being the Brand Protection Guidelines by International Olympic Committee (IOC). The guidelines specified about the protected Olympic trademarks and how unauthorised usage or violations of such trademarks can lead to serious repercussions. A certain procedure is to be followed for advertising with respect to the Olympics and these guidelines specify the same. A blackout period was imposed during the Olympics where the sponsors and other brands were not allowed to post. Only IOC and the Indian Olympic Association partners had the authority to post about the players. Posts about PV Sindhu by the brands is a clear violation of these specific rules. Not only the Brands flouted the rules but clearly invaded PV Sindhu's personal rights.
- The laws that keep such marketing in check are the trademarks and copyright laws in India. Some of the celebrities in India have undergone the registration process under the trademark laws in order to protect their personal brands from exploitation or any sort of infringement. A registered trademark owner can take action such infringement. As far as copyright laws are concerned, the Copyright Act, 1957 specifies rights of the performers and one of them being the right to restrain others from exploitation of one's performances. The other important rights are personality rights that includes right of publicity by way of which a person can restrict the usage of their name, likeliness, pictures etc. from commercial exploitation. The



ongoing case is clear violation of such rights of the player as this involves unauthorised usage by brands.

- In order to ensure the protection of privacy of celebrities during advertising, Advertising Standards Council of India also has an advertising code and the same specifies that *“Advertisements shall not, without permission from the person, firm or institution under reference, contain any reference to such person, which confers and unjustified advantage on the product advertised or tends to bring the person, firm or institute into ridicule or disrepute. If and when required to do so by ASCI, the advertiser and the advertising agency shall produce explicit permission from the person, firm or institution to which reference is made in the advertisement”*<sup>1</sup>. Moreover, it also specifies that non-compliance of such requirements will be construed as violation of the code.

Overall, it can be concluded that brands need to very cautious while coming up with such marketing that involves famous personalities/celebrities. Unauthorised usage of names, pictures can do more harm than good for these brands. The most efficient marketing strategies can result into legal procedures which are going to be way more expensive and time consuming than that one marketing post which the brand used for its engagement, without giving heed to the relevant rules and regulations. Baseline Ventures taking action on the basis of PV Sindhu’s rights shows that players and their agencies are aware of such rights and one wrong step by brand can ruin their advertising game and reputation forever.

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<sup>1</sup> Regulation 1.3, The Code for Self-Regulation of Advertising Content in India



## Get in Touch

We hope you enjoyed reading the newsletter, and we would love to hear your thoughts on what you want to be covered in our next edition!

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