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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. Bengaluru’s “Happy Belly Bakes” wins trademark battle with Amazon

A civil court in Bengaluru, Karnataka, found that a global market for goods is not a factor for rejecting locally registered trademarks, siding with a local Bengaluru bakery company in a dispute over the “Happy Belly” name with Amazon Technologies Inc. and Cloudbtail India Private Limited. According to the civil court’s ruling, Amazon Technologies is prohibited “from infringing or passing off” the entrepreneur’s trademark “Happy Belly Bakes” using the mark, name, or label “Happy Belly” or a name that is similar to it. Amazon Seller Services Private Limited has also been ordered by the court to “delete items misleadingly similar to the plaintiff’s trademark from its online marketplace in India.”

2. No exclusive rights can be given over the name Vasundhara held Delhi High Court

The Delhi High Court on Wednesday refused to give an ad-interim injunction in favor of a well-known jewelry store in Delhi, stating that an exclusive right to use the name “Vasundhra” could not be granted because it is a widely used name in India. In a ruling on an application brought by Vasundhra Jewellers, which operates a showroom in Pitampura, the court made the statement. The firm that owns the showroom has sued a Gujarati businessman who makes clothing under the name “Vasundhra Fashion” and asked the court to order him to stop using a mark that is similar to its trademark, “Vasundhra Marks.”

3. Telegram is instructed to disclose the details about the channels violating the copyright law- Delhi High Court

The case was filed by a teacher Neetu Singh who aggrieved that the videos of her lecture as well as books/ materials provided regarding competitive exams were uploaded on Telegram. Post her complaint, Telegram took down some channels but new channels were being created and the content was shared. On July 28, 2020 the court passed the interim order curbing this activity and issuing directions to give declarations regarding operation of such channels. But this direction was ineffective and so Delhi High Court re-issued the direction to Telegram to disclose the “details of the channels/ devices used to upload the infringing content, mobile numbers, IP addresses, E-mail address etc.”

4. Relief granted in the case of ‘Pulimoottil Silks’ in trademark- Supreme Court

Pulimoottil Silks is a chain of textile shops, having many branches in Kerala. In 2021, a suit was filed by them before the Thrissur District Court against a shop which was inaugurated with the name ‘Pulimoottil Textile.’ The suit was filed for infringement of the trademark ‘Pulimoottil Silks.’ The District court granted injunction as prayed by the petitioner. Aggrieved by the decision of the District Court, the matter was appealed to the High Court of Kerala who vacated the injunction order and order district court to dispose the suit within 8 months. Aggrieved by the decision, Petitioner appealed before the Supreme Court. The Supreme Court upheld the decision of the District Court and held that injunction order was true and so apex court restrained the defendant from using the mark of the petitioner.



5. Delhi High Court to consider the question of - Does 'More Sellers' feature on E- Commerce websites amount to passing off?

The petitioner, V Tradition, a women clothing brand approached the court to prevent Flipkart from allowing any person to conduct its business on the e-commerce platform as 'more sellers' of the goods by the plaintiff, and against unauthorized use of the product image. It was the situation where third party used to 'latch on the trademark of the plaintiff. Latching on is the feature whereby an e-commerce platform permits third party sellers to place a listing under an already listed product on website. The court seeing this told that such feature cannot be permitted as it is detrimental to the image of the owner. But it was argued by the counsel of the Flipkart that this feature has been disabled by the company way back. The case is pending and yet to be decided by the court.





Technology and E-Commerce Updates

1. Cabinet of Tamil Nadu approved the ordinance to ban online gambling

Previously Tamil Nadu government had moved the Supreme Court against the order given by the Madras High Court to struck down Tamil Nadu Gaming and Police Laws (Amendment) Act of 2021. This act prohibited to play games such as rummy on cyberspace. The Supreme Court passed the order on 10th September and based on the directions of the Supreme Court on 26th September,2022, Tamil Nadu cabinet passed the order banning the games played online.

2. India and Japan to create a enterprising cyber future

India and Japan had a high-level virtual cyber dialogue in June 2022. The joint secretary of the Ministry of External Affairs' Cyber Diplomacy Division headed the Indian delegation, which included representatives from the departments of home affairs, external affairs, military, electronics, and information technology. Similar government agencies made up the Japan mission, which was led by the ambassador in charge of cyber policy. National policies and legal frameworks for important and developing fields, such information and communication technology, were the focus of discussion. It examined and charted the development of bilateral cybersecurity and cyber cooperation, and it took into account 5G communication technologies between the countries.

3. New telecom law will be applied to platforms like WhatsApp, signal, etc.

According to telecom minister Ashwini Vaishnaw, voice and video calling services offered by social media and messaging platforms like Whatsapp, Signal, and Telegram will be subject to mild regulation under the proposed telecom bill. According to him, the Indian Telegraph Act already included these applications, but the new regulation now specifically mentions them.

4. India to design & manufacture reusable rockets according to ISRO

According to S Somanath, head of the Indian Space Research Organization (ISRO), India has ambitions to create a new, reusable rocket for the international market that would drastically reduce the cost of launching satellites. At the opening session of the international conference and exhibition, he said, "So, the concept is that the next rocket that we are going to develop after GSLV Mk III should be a reusable rocket." According to Somanath, ISRO has been working on a number of technologies, including the one that was showcased last week with the Inflatable Aerodynamic Decelerator (IAD). "We'll need a retro-propulsion to land it (the rocket back on earth)," the speaker said.

5. Google announces third-party 'in app' billing pilot in India, some other markets

Google announced that third-party 'in app' billing system pilot will be extended to India and some other markets, allowing non-gaming developers to offer users the choice of an alternative billing mechanism alongside that of Google Play. A reasonable service fees will continue to apply in order to support investments in Android and Play, according to Google. However, specifics of what the reasonable service fees will be, have not been disclosed. Users will still have the choice to use Google Play's billing system.





Fashion & Sports Law Updates

1. Dior Loses Bid to Register the Shape of its Saddle Bag as Trademark for Bags in EU

The Saddle bag by Christian Dior doesn't deviate from standard fashion industry designs enough to qualify for a handbag-specific trademark registration. That is what the Second Board of Appeal of the European Union Intellectual Property Office ("EUIPO") opined in a decision issued at the beginning of this month, rejecting Dior's application to register the shape of its well-known handbag, which is owned by LVMH, as a three-dimensional trademark for use in connection with various types of leather goods, including bags.

2. Inside Nordstrom's Adoption of a Poison Pill

Nordstrom Inc., is one of the leading fashion retailer company who adopted a shareholder rights plan this week in order to protect the interest of the company by reducing the possibility of any other entity to gain control. Mexican department store chain EL Puerto De Liverpool disclosed that they have 9.9% stake in Nordstrom, making them NYSE- traded company's second largest shareholder.

3. Ethereum Name Service Sues GoDaddy Over Eth.link Domain

Ethereum Name Service has sued internet domain registrar and web hosting company GoDaddy for selling domain names ending with eth.link. True Names Ltd, the company that owns the rights to sell the eth.link domain claims that GoDaddy falsely announced that True Names' right to sell the eth.link domain expired and has been sold to a third party.

True Names filed a lawsuit against GoDaddy in the U.S. District Court for the District of Arizona. Ethereum Name Service is responsible for all the web addresses that end with .eth.

4. Sephora to Pay \$1.2 Million to Settle California Consumer Privacy Act Action

The California attorney general's office announced Wednesday that Sephora must pay \$1.2 million as part of a settlement in connection to state's consumer privacy law. The settlement comes after California Attorney General Rob Bonta accused Sephora of violating the California Consumer Privacy Act (CCPA) by allegedly failing to inform consumers it was selling their personal information and failing to process requests to opt out of sales "via user-enabled global privacy controls," according to the release from Bonta's office. The cosmetics giant also allegedly failed to cure the violations within 30 days of being notified in June 2021.

5. Chanel Prevails in Latest Round of Trademark Lawsuit Over Upcycled Buttons

Chanel has prevailed in a latest round over jewelry crafted out of upcycled buttons bearing its famous branding. In the wake of Defendant Shiver + Duke filing a motion to dismiss for lack of personal jurisdiction or transfer of venue and Chanel being granted the leave to conduct jurisdictional discovery on the scope and extent of the defendant's activity directed at New York, the U.S. District Court refused to grant the defendant's motion. According to the Court, Atlanta based jewelry maker which crafted jewelry from authentic, recycled and repurposed Chanel buttons, has not only transacted enough business in New York state to subject it to litigation there but has failed to sufficiently show that the case should be transferred to a Federal Court in Georgia.





Corporate & Commercial Law Updates

1. ArcelorMittal bids to acquire Srei Group Companies under IBC

According to sources cited by CNBC-TV18 on September 28, ArcelorMittal has submitted an expression of interest (EOI) to buy Srei Equipment Finance and Srei Infra Finance, which are going through a resolution process under the Insolvency and Bankruptcy Code (IBC). After a disagreement with earlier bidders over an earnest money deposit, SREI lenders invited new bids for these companies (EMD).

2. Hon'ble Supreme Court held that resolution in respect of one borrower cannot discharge a co-borrower

On September 22, 2022 the Supreme Court in the case of Maitreya Doshi vs. Anand Rathi Global Finance Limited ruled that approval of resolution plan in respect of one borrower cannot discharge the second borrower. The apex court ruled that in case when two individuals/ bodies fall within the ambit the corporate debtors, then the case can be filed as well as initiated under Section 7 of the IBC. The highest court also highlighted in the judgment that the same amount can be realised by both the Corporate Debtors. If the dues are realised from one Corporate debtor than the remaining can be realised from the other Corporate Debtor. Once the debt owed to Financial Creditor is discharged than the recovery of the claim cannot be initiated twice.

3. Resolution Plan Which Ignores Statutory Dues Payable To State Government/Legal Authority Liable To Be Rejected : Supreme Court

The Supreme Court held that a Resolution Plan which ignores the statutory demands payable to any State Government or a legal authority, altogether, is liable to be rejected. The court also held that the Section 48 of the Gujarat Value Added Tax Act is not contrary to or inconsistent with Section 53 or any other provisions of the IBC. Under Section 53(1)(b)(ii), the debts owed to a Creditor.

4. OTS Being Under Consideration Does Not Invalidate An Order For Liquidation: NCLAT Delhi

The National Company Law Appellate Tribunal ("NCLAT") has held that mere fact that the Corporate Debtor's One Time Settlement was under consideration, does not invalidate an order passed by the Adjudicating Authority for liquidation of the Corporate Debtor. The Tribunal held that the CoC in its commercial wisdom having refused to approve the plan submitted by the Appellant that decision is not open for any judicial review. In facts of the present case, the fact that OTS of the Appellant is under consideration also does not render the order of liquidation invalid in any manner.





Hospitality & Real Estate

1. VR Experience centre launched by PropVR for Real Estate

In order to assist real estate developers in providing transparent, educational, and immersive customer experiences to purchasers, PropVR, the 3D visualization platform of Square Yards, has opened a first-of-its-kind Real Estate futuristic Experience Center in Mumbai. With the use of cutting-edge technologies, the center strives to improve the property visualization experience by providing in-depth exploration insights into a newly launched property.

2. Installation of EV charging stations at Sherton Grand Chennai Resort and Spa

As the motive of Marriott to evolve with growing times under the Serve360 Operation, they are installing this charging stations to meet the demand of the EV cars. This was also done with the motive of attracting more guest. This was achieved by Sherton Grand Chennai Resort and Spa, Mahabalipuram with the partnership of Charge Zone in order to achieve the sustainable growth.

3. Uttar Pradesh government approves TOD policy around rapid rail corridor

The UP government has approved a transit-oriented development (TOD) policy for areas within 1.5km radius of the rapid rail corridor – a move that aims to spur high-density urban clusters and will allow developers to apply for higher FAR (floor area ratio). TOD policy, introduced by the central government as a blueprint for states in 2017, envisions the growth of “sustainable urban growth centres” built around public transport networks such as the Metro, Bus Rapid Transit System (BRTS) and the Rapid Rail Transit System (RRTS). The concept is to give access to all residential and commercial facilities within an area that is also “walkable”, so that people don’t need to commute long distances through private vehicles.

4. The Postcard Hotel has been recognized as Asia’s leading boutique hotel brand

Scaling new heights in offering unparalleled experiential luxury to discerning guests, The Postcard Hotel takes home multiple recognitions and leaves a mark yet again at this year’s World Travel Awards 2022, in a glittering ceremony last evening at Ho Chi Minh City in Vietnam. The Postcard Hotel has been voted as the ‘Asia’s leading boutique hotel brand’, and other noteworthy honors for its portfolio.

5. NCDRC penalises Raheja developer for delay in Revanta project in Gurugram

The National Consumer Disputes Redressal Commission (NCDRC) has penalised real estate developer Raheja and have ordered refund along with interest for delaying its project ‘Revanta’ at Sector 78, Gurgaon. The order came on the complaint of 30 homebuyers who had sought relief from commission. Raheja developers) is directed to refund the entire amount deposited by the respective complainants along with delay compensation at 9% per annum on the deposited amount from the respective dates of deposits till realization, within a period of two months of this order. Any delay beyond two months, will attract an interest rate of 12% per annum for the same period.





Litigation & Dispute Resolution

1. Women allowed to terminate the 21 weeks pregnancy without the consent of the husband- Kerala High Court

The Kerala High Court in *Aryamol vs. Union of India* allowed the pregnant women to terminate the pregnancy which was already in its 21 weeks. In this case, the women married the husband besides the wish of her family. After the marriage, husband's family demanded dowry and started ill-treating her. Later, when she thought to terminate the pregnancy, medically it was not allowed so she approached the court. The court while stating its judgment highlighted the rules which are framed under the MTP Act. The rules allows the women to terminate the pregnancy between 20 to 24 weeks if the "marital status of the women is changed during the term of pregnancy." In the current scenario the women status was not changed legally but she was willing to grant divorce to husband and so the court granted her the right to terminate the pregnancy without the consent of the husband.

2. PIL Seeking Action Against Deceitful Religious Conversion

A PIL asking for a statement that "fraudulent religious conversion and religious conversion by intimidation, threatening, deceivingly seducing through gifts and monetary incentives" violates Articles 14, 21 and 25 of the Indian Constitution was given notice by the Supreme Court on 23rd September 2022. The petitioner further requested that the Centre and State be instructed to take rigorous measures to control it. Alternatively, the court might order the Law Commission to create a law and compile reports to regulate "Deceitful Religious Conversion" within three months. The petition was submitted in response to the January 2021 suicide of a girl student at a school in Tamil Nadu.

3. One right to re-approach NCDRC will be forfeited once complaint is withdrawn to move RERA, proclaimed NCDRC

Applying the doctrine of election, the National Consumer Disputes Redressal Commission [NCDRC] has determined that a complainant who has already exercised his right to withdraw his complaint from the NCDRC and who has contacted RERA does not have the right to re-approach the NCDRC. A complaint that the complainant had first filed with the NCDRC was then withdrawn and sent to the Haryana Real Estate Authority in Panchkula. The Real Estate (Regulation and Development) Act of 2016 (RERA) Section 7 and Section 18 each saw the filing of two cases. After the HRERA dismissed the complaints, the complainant went to the appeals body but eventually withdrew. The complainant then submitted the current complaint to the NCDRC.

4. Right to be forgotten: Litigants call to erase the trials and tribulations of the past

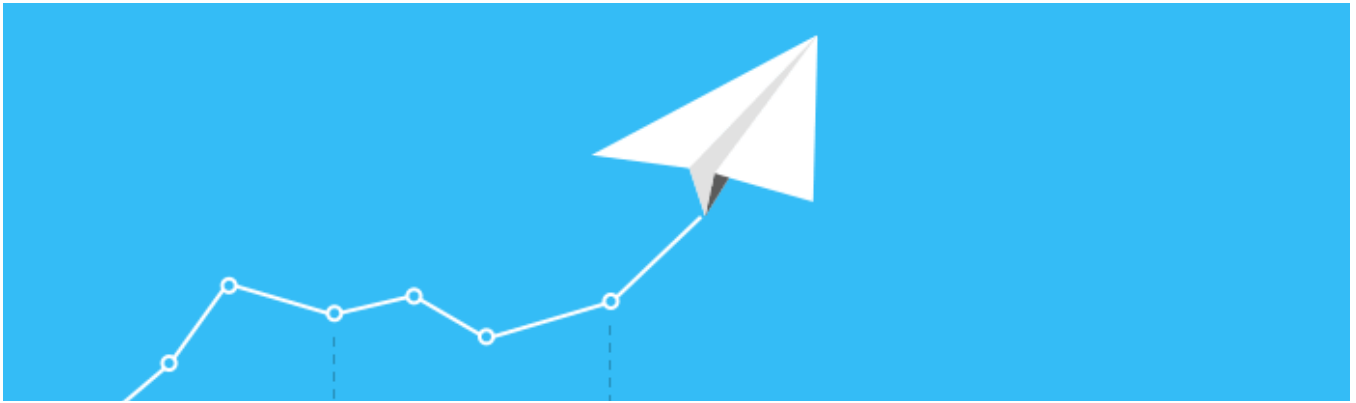
The Karnataka High Court recently directed media houses to temporarily block names of two acquitted persons who had invoked the right to be forgotten. Though Indian laws haven't specifically carved out this right, courts in recent times have acknowledged it from the prism of the fundamental right to privacy, owing to the potential of social boycott or harm to reputation not only to litigants, but also their families. Thus, the need for personal information or details of past life events of persons who they have already undergone punishment or prosecution to remain in the public domain is increasingly being debated before the courts.



5. Supreme Court rejects PIL to declare Sanskrit as national language

The Supreme Court rejected a public interest litigation (PIL) petition seeking declaration to make Sanskrit the national language of India in *KG Vanzara vs Union of India*. A bench of Justices MR Shah and Krishna Murari said that the right forum for considering the issue raised in the plea, is the parliament and not the court. The plea sought a direction to the Central government to notify Sanskrit as the national language. The plea said such a move will not disturb the current Constitutional provisions which provide for English and Hindi as official languages of the country.





Start-Up Advisory & Consultancy

1. Green logistics startup EVIFY offers first, mid and last-mile solutions to BigBasket, Swiggy, others

Founded in July 2021, EVIFY is a full-stack, tech-enabled green logistics company that provides end-to-end logistics solutions. It has partnered with BigBasket, Swiggy, and Ecom Express, and will soon start working with Flipkart, Delhivery, Porter, and Shadowfax. Presently operational in Surat, EVIFY combines technology solutions and logistics infrastructure to offer various services to delivery players in FMCG, ecommerce, and other industries keen to replace traditional vehicles with EV fleets. EVIFY's logistics solutions give businesses access to full fleet management, driver management, battery management, and technology solutions such as telematics. It also helps with financing and loan management, credit risk analysis, and key fleet insights.

2. New-age wellbeing with precision healthcare

Bengaluru-based tech startup Resolute.Ai is reimagining healthcare by sharpening its focus on personalised care. The platform also helps customers prevent lifestyle-related issues via regular supervision. Launched in 2022, it is the third healthcare startup founded by Srinivasa Vivek, a technologist turned entrepreneur. Its digital platform engages with individuals to source health information, enabling it to make accurate diagnoses, create a prevention cycle, and provide course correction steps. The startup has created different stacks to deal with various lifestyle issues, including sleep disorders, stress management, flexibility, and nutrition, among others.

3. Central Government launches SETU initiative to connect Indian startups with US based investors

In the San Francisco Bay Area, Union Minister Piyush Goyal introduced the SETU (Supporting Entrepreneurs in Transformation and Upskilling) program. The project will provide mentorship and support in a number of areas, including finance, market access, and commercialization, by connecting businesses in India to investors and startup ecosystem leaders in the US.

4. Mysuru ecommerce startup is seeing 100% m-o-m growth

BuyEazzy is an online marketplace that was established in 2021 with an emphasis on cosmetics and personal care items. The Mysuru-based business wants to dominate Tier II cities and beyond when it comes to shopping. Over the past six months, BuyEazzy has grown at a 100% month-over-month rate and now processes more than 2,000 orders daily. Eight cities in Karnataka—Mysuru, Hubli, Dharwad, Mangaluru, Belagavi, Coorg, Hassan, and Tumkur—are where the firm is now operating.

5. Software Development Program GitHub now is launched in India

Microsoft owned platform GitHub has million of developers in India whereas 83 million globally. GitHub having partnership with some of the leading venture capital launches this startup development platform. In order to boost startup, Software Development Platform GitHub made its software available in India. The startup companies will receive up to 20 seats of GitHub enterprise free for one year along with the guidance provided by the technical experts.



6. Mahindra will buy startup B2B Rivigo

Mahindra Logistics is going to buy the unicorn startup's B2B express delivery business along with all rights, title, beneficial ownership and interest at INR 225 Crore. The deal is expected to be closed by 1st November. Along with this takeover, Mahindra will takeover all the Rivigo's customers, team, assets etc. However, Rivigo will continue its business of the full truck load operations.





Fashion Industry and Intellectual Property Rights

- Moxy Shah

INTRODUCTION

There is a fine art to fashion. An artist expresses himself or herself through art. Several people define themselves by their fashion choices and it affects everyone. Only in this sector does everyone have the same opportunity to participate. There will never be an end to fashion or style. It is inevitable that people will purchase clothing in the future. The fashion industry is ever changing, with new styles and designs emerging every day. Styling trends are introduced, but they aren't necessarily new inventions. Fashion trends from the 90's are back in style with a modern twist thanks to a new colour palette or accessories added. Fashion includes not only clothing but also footwear, such as shoes, heels, sneakers, flats, sandals, and accessories, such as bags, jewelry, and hair accessories. Fashion trends have been passed on and evolving from across the globe. The idea of a global fashion industry is a contemporary invention. In the fashion industry, creativity extends beyond the act of designing to include ad campaigns and marketing of products, whether high fashion or ready-to-wear, in order to achieve the competitive edge required for success. All of this intellectual capital associated with a distinct brand becomes a fashion company's most valuable asset.

Indian designers have recognised the needs of the international market and are working to meet them. They are creating modern outfits with the clever use of embellishments, indigenous techniques and craft, while keeping the Indianness intact.

FASHION AND INTELLECTUAL PROPERTY

Whether in the fashion industry or any other business, intellectual property is the foundation for protecting your concepts and ideas. A legal exercise known as intellectual property protects the creative process. Simply put, intellectual property is an intangible asset. The idea itself cannot be protected, but the creative presentation of the idea can be protected. At its core, intellectual property law is a hybrid of patents, copyrights, and trademarks. Fashion designers have a great visual imagination and translate their ideas into clothing. The fashion industry deals with a wide variety of intellectual property rights. The fashion industry is about more than just clothing collections. We also manufacture shoes, jewelry and other accessories. The fashion business is expanding rapidly and many Indian designers such as Ritu Kumar, Rahul Bal, Anita Dongre and JJ Valya have



successfully secured legal protection for their work. Intellectual property is the result of using your mind and intellect to create something new and unique. The fashion industry is an industry rich in intellectual property that constantly generates and commercializes creative ideas and innovations.

"Who are you wearing?" is a common question asked by celebrities on many red carpets dressed in elaborate ensembles. What if you could identify clothes with few industries are as competitive as the fashion industry. For a company to protect its designs, patterns or other intellectual property from theft, counterfeiting or other unauthorized attempts to harm the company through the malicious use of clothing or its designs is essential.

The Fashion Foundation of India (FFI), a newly formed association of leading Indian designers, seeks to protect intellectual property rights from rampant copying, 'references' and 'inspirations'. Through her research and analysis cell, she actively researches and commissions studies to highlight different aspects of the fashion industry. It will also establish a legal department to assist design firms with issues such as intellectual property rights, licenses, contracts and arbitration. Only design offices are eligible to join the foundation, and corporate representatives recommended by each design house become members.

TRADEMARK

Trademarks are used to identify the source of goods or services. Trademark law protects a brand's rights to revenue and helps consumers distinguish between genuine products and counterfeit products. Trademark law probably has the greatest impact on fashion. A brand or logo. It can also be more than just a name. All major brands such as Kate Spade, Calvin Klein, Ralph Lauren, Chanel, Gucci, Louis Vuitton, H&M, Tiffany & Co. are trademarked. These are all known and protected trademarks. I believe the main purpose of trademark law is to avoid consumer confusion in the marketplace.

A trademark is a type of intellectual property right that allows consumers to identify the origin of goods. Gucci's GG and Yves Saint Laurent's YSL concatenation provokes public outrage for two reasons. The direct association between the goods and their sources (famous luxury brands) and the exorbitant prices that those who own these goods may have paid. Trademarks therefore provide effective protection for designers who integrate trademarked symbols and logos into their designs.

The ongoing dispute between Kanye West and the perfume company over their respective "YZY" trademarks is one such trademark issue, where the same brand name can confuse or deceive consumers as to the origin of a product. It enumerates how it prohibits two companies from having a trademark [1].

Most of the great brands like Ralph Lauren, H&M, Tiffany and Co., Calvin Klein, Gucci, Kate Spade, LOUIS VUITTON, Chanel, etc. are all famous brands and trademarked for the same thing. The main purpose of acquiring a brand is to avoid market confusion among customers.

Section 2 of the Trade Marks Act 1999 (example) [2]: According to this section, a trademark is anything that can be represented graphically and can also be used to distinguish one person's products or services from another. This is true for many shapes, color combinations and even product packaging. Additionally, trademark law protects trade dress, which includes product packaging within its scope. Courts often recognize that product packaging is an important part of fashion apparel design. It was also emphasized that trade dress includes elements such as shape, color scheme, graphics, and texture.



Registration of Three Stripes by Adidas[3]: Famous sports brand Adidas has applied for registration of the 3-Stripes. However, the company's objection to continuing to mark its goods as a trademark had to be dismissed by the European Court of Justice. The court's ruling comes against the backdrop of growing patent concerns in the sports sector. In its final decision, the court ruled that the trademark stripes cannot be placed side by side.

Christian Louboutin V. Yves Saint Laurent[4]: The incident is considered a turning point in raising public awareness of fashion law. Christian Louboutin and his red soles are the subject of a trademark dispute. Kristen Louboutin is a French designer who owns brands in the United States and many other countries. It's widely accepted that when you see red, you know it's a Christian Louboutin shoe. The definition of brand is very broad.

Gucci sued Guess for infringing on many of Gucci's logos and trademarks, including the "stylized G" mark and "repeating GG pattern." Only compensation was awarded. They originally applied for over \$20 million.

TRADE DRESS

A certain level of protection, known as trade dress, is afforded when a product has features or is given additional meaning. Tiffany's Robin Blue packaging and Christian Louboutin's infamous red-soled shoes make it easy for customers to identify the provenance of a product. The novelty is that Valentino is going to get the armor for "a single ankle his strap and his T-strap, a three-dimensional construction of the shoe with a pyramidal studded collar." about it. Recently, the Japan Patent and Trademark Office Board of Appeals rejected Christian's red-soled trademark application for Louboutin shoes.

COPYRIGHT

Copyright is nothing but the ability to reproduce something. The grant of creative rights is intended to encourage greater artistic expression and production. As soon as you use pen on paper to create a design, drawing, sculpture, or musical work, that work is copyrighted. Generally, copyright does not protect the cut, silhouette, or shape of a dress. We do not want copyright to be used to protect things like the cut of a jacket. Because on the jacket he has two arms and buttons. Think about blazers. For example, the Diane von Furstenberg wrap dress is not protected for the wrap dress itself, but the design is.

Star Athletica V. Varsity Brands[5]: Featured Case The Athletica case addresses a simple problem: Is it legal to wear different sizes and shapes of clothing? The employees of this company, which made nearly all of the country's cheerleading uniforms, traveled to another country to find some of their original employer's designs. His new company was sued for intellectual property infringement. The court considered two different aspects of the design. Their designs are more utilitarian, like uniform cuts, as opposed to uniform designs and images. According to the court, copyright protects designs, not clothing cuts.

In Rajesh Masrani v Tahliani Design[6] : In that case, the plaintiff held in the courtroom of the Delhi High Court that the drawings he made while developing the garments and accessories were works of art under Section 2(i)(c) of the Copyright Act 1957. , the fabric as well as the final garment design were considered works of art. Plaintiffs also allege copyright infringement of these various works of art, and one judge issued an injunction in favor of plaintiffs.



DESIGN

A design is the visual appearance of a product, such as a decorative pattern on clothing. It is possible to register a new and unique design. This means it cannot be the same or similar to previously produced designs (even in a sketch). Certain designs, such as those with scandalous graphics, are not eligible for registration. This protects the designer's visual appearance but not the product's feel, material, or function.

Design protection is the most important intellectual property tool for the fashion industry. By registering a design, the owner can prevent others from using its new or unique decorative or aesthetic aspects, such as three-dimensional features such as attractive shapes, or two-dimensional features such as aesthetically pleasing textile prints. Three-dimensional designs such as handbags, clothing, and accessories can be intellectually protected by registering them as industrial models. Designs printed on fabric are also protected, but not as industrial designs because they do not have a three-dimensional shape, but as images, lines, or color combinations incorporated into industrial products for decorative purposes.

The Designs Act only protects registered designs, not unregistered designs. As a result, fashion designers who do not properly register their designs cannot take advantage of the law. It is important to note that trademarked fashion designs cannot be protected under design law.

Additionally, the Designs Act of 2000 was written to allow protection of non-functional aspects of visually appealing objects such as objects. B. A configuration, pattern, ornamentation, or composition of lines or colors applied to a shape in two dimensions, three dimensions, or both. Design rights are valid for 10 years, which can be extended for a total of 15 years under certain conditions.

In the case of copyright infringement of a registered design, section 22 of the Designs Act states that the infringer is liable to the registered design owner for an amount not exceeding Rs. says. If the owner chooses to sue for damages for injunctive relief for infringement of the rights granted to him and for repetition thereof, damages will be awarded and the person may be detained by injunction.

COPYRIGHT AND DESIGNS ACT

The Copyright Act 1957 protects "works of art" and the Designs Act 2000 protects "original designs" including shapes, compositions, patterns, ornamentation, and composition of lines and colors. However, the line between legal copying and design piracy is blurred because it is difficult to determine the originality of a design.

Fashion design, which is an original artistic work and thus cannot be registered as a "design" under the Designs Act of 2000, will be granted copyright protection in the form of copyright in original artistic work under the Copyright Act of 1957. Copyright in an original artistic work exists from the moment the work is created and lasts for the author's lifetime plus sixty years if published during the author's lifetime. Section 15 of the Copyright Act would apply to the commercial/industrial manifestation of original work, such as a design derived from and founded on original artistic work for the industrial production of furniture.

To protect his/her creations under the Copyright Act, 1957, Fashion designer needs to prove:

- (i) That his/her creation is an original artistic work within the meaning of the Copyright Act, 1957 and is not a design within the meaning of the Designs Act, 2000; and



- (ii) That the article (e.g. garment), to which the design derived from the creation has been applied, has not been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his license, by any other person.

PATENTS

Although patents are not commonly used in the fashion industry, they are frequently very useful in protecting and encouraging further technological innovation, and as a result, they help to build a stronger brand because it will undoubtedly be more appealing to partners and investors in a highly competitive market.

Patents are exclusive rights granted on an invention, so they can be used in the field of clothing to protect, for example, technologies that make clothing more resistant to water, UV rays, and even fire, or that have a wrinkle-free or antibacterial material.

Recent incidents of legal disputes based on design patent infringement have occurred. One of the most well-known cases is Nike's lawsuit against Skechers for infringing on eight of its patents. Nike requested that the defendant cease using its Burst, Flex Appeal, and Flex Advantage designs and compensate it for any harm caused. Nike claimed that the defendant will use its designs on its own athletic shoes.

Novozymes, a Danish biotech company focused on enzymes and microbes, invented the use of enzymes to cure fabrics. Despite having no prior experience in the fashion industry, the company developed and patented a technology in 1987 for the treatment of "stone washed" denim jeans. This method, which uses an enzyme called cellulase, gives denim a worn appearance by removing some of the indigo colour. Within three years, Novozymes' cellulase was primarily used in the denim finishing industry. Novozymes' technology for improving manufacturing processes and fabric finishing has been licenced internationally. To maximise royalty revenue from its more than 4,200 active patents and patent applications, the company employs a proactive licencing strategy.

[1] Kanye West Is Fighting with a Fragrance Company Over Their Respective 'YZY' Trademarks." *The Fashion Law*, 22 July 2020

[2] <https://ipindia.gov.in/acts-rules-tm.htm>

[3] "Adidas loses EU bid to extend three-stripe trademark". Reuters. 19 June 2019. Retrieved 17 July 2019.

[4] <https://www.lexisnexis.com/community/casebrief/p/casebrief-christian-louboutin-s-a-v-yves-saint-laurent-am-holding-inc>

[5] Inc. 580 U. S. ____ (2017)

[6] 2008 SCC OnLine Del 1283 : (2009) 107 DRJ 484 (DB)



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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