

VOLUME 27 | APRIL 2023

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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. Delhi High Court rules against evergreening of diabetes drug and denies injunction against Indian generic drug maker.

The Supreme Court of Delhi has rejected the issuance of an injunction in favor of the German pharmaceutical company Boehringer Ingelheim Pharma GMBH & Co. KG (plaintiff) in a lawsuit initiated by her against several Indian pharmaceutical companies. The judgment was delivered in six trade lawsuits initiated by the company that were related because they involved the same patent-in-suit and molecule relating to the diabetes drug linagliptin (drug). In the present case, the plaintiff held two patents related to the drug, one being the generic patent (Indian Patent No. 227719, which expired on February 21, 2022) and the other being the species patent (Indian Patent No. 243301, which expired on August 18, 2022). expired in 2023). Shortly after the generic patent expired, the defendants marketed their generic products, with the exception of defendants in CS(COMM) 239 and 240 of 2019, who marketed their product before that expiration.

2. Public notice about the suspension of trademark applications

By public notices dated February 6, 2023, the Inspector General for Patents, Designs and Trademarks has published lists of trademark applications that are deemed to be abandoned for the following reason: a) In the case of trademark applications against which opposition has been filed, Failure by the Applicant to file the Response to the Examination Report within the time prescribed under the Trademark Act 1999 and the rules made therein (the Act and the Rules); and b) In the case of trademark oppositions: failure by the applicant to file a counter-statement to the notice of opposition within the prescribed time period under the Commercial Law and Rules. In order to ensure proper notification to the parties, the Register has published the above lists for public examination and has requested the injured party to notify the Trademark Register within 30 days of the publication of the notice of applications for which the filing was made within the time limit . In support of the above notice, the Controller General of Patent, Design and Trade Marks issued new notices on March 27, 2023, disclosing the list of trademark applications deemed abandoned after the issuance of the February 6, 2023 notices.

3. Kolkata Supreme Court has ordered YouTuber DHRUV RATHEE to remove a video denigrating real fruit juices.

In a case filed by Dabur India Limited (plaintiff) against YouTuber Dhruv Rathee and others (defendants) in relation to his recent video analyzing the health effects of fruit juices, the Calcutta, the Supreme Court granted the plaintiff interim relief Legal protection and ordered the YouTuber to remove the offending parts from the video in which he allegedly disparaged the fruit product "Real Juice" packaged by the plaintiff. The plaintiff alleged that the YouTuber made unfair comparisons between carbonated drinks and RTS fruit drinks in his video. He also advised consumers not to consume packaged fruit juices as it could lead to type 2 diabetes and hair loss. In addition, the video contained brazen references to real fruit juices and the YouTuber mischievously blurred only part of the registered Dabur's logo. The court found that the contested video shows a previous advertisement that the plaintiff had aired for its Real product and also shows the plaintiff's Real product in a blurred form. Plaintiff Real's product was repeatedly targeted, both overtly and covertly, in the video at issue. In addition, the court ruled that the YouTuber breached the provisions of Section 29(9) of the Trade Marks Act 1999 and the Copyright Act 1957.



4. T-series issues a public notice to the maker of the film "hera pheri 4".

A public notice has been issued by Super Cassettes Industries Private Limited (T-Series) to the producers of the film Hera Pheri 4 claiming that the audio and visual rights to each song of the acclaimed Hera Pheri series are in all Modes, media and formats (whether existing now or emerging in the future) around the world and owned exclusively by T-Series in perpetuity. T-Series has claimed to be the sole owner of the copyrights to the master recordings, literary works and musical works contained in the sound recordings and images of all songs and the same has been assigned to them by Base Industries Group.





Technology and E-Commerce Updates

1. Shopify Collabs is now integrated with Flow

Shopify Collabs now integrates with Flow allowing you to automate your most repetitive Collabs tasks with ready-made workflow templates. You can also build custom flows using Collabs specific triggers and actions.

Ready made templates include:

1. Automatically approve an applicant
2. Export accepted creators to Klaviyo
3. Follow-up on a gift
4. Congratulations on first sale

2. Use Benchmarks to compare performance against shops like yours

With Benchmarks, you can now compare your store's data against similar stores for specific metrics within Reports. The benchmark comparisons are shown only in data charts; they are not available in the data tables.

Follow these steps to access Benchmarks in a report:

1. Open a report with a benchmark
2. Click the Compare menu
3. Select Benchmarks.

Benchmark data is available for the following reports in Shopify: online store conversion over time, average order value over time, customer cohort analysis, and fulfillment, shipping and delivery times reports.

3. Payment Giant NCR Suffers Ransomware Attack

U.S. payments giant NCR has revealed it suffered a ransomware attack that struck its Aloha, Hawaii data center. While the company has downplayed the event saying that restaurants affected by the incident can still serve customers, Simon Chassar, the CRO of security company Claroty, believes otherwise. He commented, "Our research shows that 51% of the food and beverage sector reported substantial disruption when hit by a ransomware attack in 2021....Moreover, these attacks can cause significant financial losses for organizations." NCR has launched an investigation into the attack.

4. UK issues advisories against Jaguar Tooth malware.

The U.K. National Cyber Security Centre (NCSC), the U.S. National Security Agency (NSA), U.S. Federal Bureau of Investigation (FBI) and U.S. Cybersecurity and Infrastructure Security Agency (CISA) have released a joint advisory warning for the malware "Jaguar Tooth." The custom malware is reportedly being used by Russian state-sponsored APT28 actors to compromise Cisco IOS routers. The APT28 criminal organization is notorious for using zero-day exploits to carry out cyber espionage and has been linked to a variety of attacks on U.S. and European targets. To counteract these assaults, all Cisco administrators should update their routers to the newest firmware.





Fashion & Sports Law Updates

1. Competition and Markets Authority (CMA) Green Claims Code

It was launched ten months ago, aims to show brands and retailers how to avoid greenwashing by communicating their sustainability claims honestly and accurately so as not to mislead people respectively. In an interview with FashionUnited, Cecilia Parker Aranha, Director of Consumer Protection at the CMA, spoke about the ongoing investigation by regulators and the findings on the Green Claims Code. She also gave advice on how to avoid greenwashing as a brand and what the future of sustainability communication in fashion could look like. A good example of this was provided by the German fashion brand Arnedangels, which changed its marketing strategy and claimed that there are no sustainable products: all new Every product produced leaves an ecological footprint and pollutes the environment - no matter how consciously and resource-efficiently it is manufactured. Don't fall for promises that buying a product will do our planet good, but listen carefully, said Katya Kruk, Impact & Innovation Director at Arnedangels. Consuming less and going for better quality is the best thing you can do for the environment.

2. The Hong Kong Research Institute of Textile and Apparel

The Hong Kong Research Institute of Textile and Apparel (HKRITA), presented Acousweep, a new technology that uses sound waves to separate microplastics from wastewater. It captures and separates particles smaller than 5 millimetres, which are then collected in a separate container and can be recycled. According to the European Environment Agency, synthetic textiles account for about eight percent of the European that end up in the oceans. According to the Circular Economy Action Plan, which was published in March 2022, the EU is being urged to tackle microplastics.

3. Adidas announced that 96 percent of the polyester used in its products is recycled

Adidas announced that 96 percent of the polyester used in its products is recycled and beauty and fashion group Puig joined the Sustainable Markets Initiative's Fashion Task Force. Nike announced the launches of new upcycled collections in the frame of its Re-Creation program for London and Paris this summer and the Natural History Museum in London presented a collection in collaboration with sustainable clothing company Teemill. The US bag and fashion label Coach launched its sub-brand Coachtopia, which is based on a circular design philosophy and Gen Z. The brand is also focusing on the recyclable sector.

4. New research by financial think tank Planet Tracker

New research by financial think tank Planet Tracker, however, revealed that many of the world's largest textile companies like Anta Sports, Gap, Levi Strauss, Nordstrom, Under Armour and Victoria's Secret are failing to link executive pay to environmental, social, and governance (ESG) performance, a key driver of credible action.





Corporate & Commercial Law Updates

1. Master Circular For Foreign Venture Capital Investors (“FVCIS”)

The Securities and Exchange Board of India (“SEBI”) has issued a master circular dated March 03, 2023, for FVCIs (“Master Circular”), for effective regulation of FVCIs and to enable stakeholders to have access to all the applicable requirements/circulars at one place. This Master Circular rescinds the following circulars:

1. SEBI Circular No. IMD/DOF-1/FVCI/CIR.No.1/2009 dated July 03, 2009;
2. SEBI Circular No. SEBI/IMD/DOF-1/FVCI/CIR-1/2010 dated January 12, 2010; and
3. SEBI Circular No. SEBI/HO/IMD/DF1/CIR/P/2017/75 dated July 06, 2017.
4. The Master Circular has come into force with effect from March 03, 2023.

2. E-Wallet Investments in Mutual Funds

E-wallet for investment in Mutual Funds within the umbrella limit of INR 50,000 for investments by an investor through both e-wallet and/or cash, per Mutual Fund per financial year. SEBI has vide its circular dated March 23, 2023⁴ has stated that it should be ensured that all e-wallets are fully compliant with KYC norms as prescribed by Reserve Bank of India.

3. NCLAT Confirms CCIS Order Imposing a Fine of INR 1,337 Crores on Google

Competition Commission of India (Competition Appeal (AT) No. 1 of 2023) issued the Competition Commission of India (CCI) against Google for its anti-competitive conduct in the Android ecosystem fine of INR 1,337 crores confirmed. By resolution of October 20, 2022, CCI appointed Mr. Umar Javeed & Ors. against Google LLC & Ann. (Case No. 39 of 2018) fined Google INR 1,337 crores for abusing its dominant position in multiple markets. In addition, the CCI issued an injunction against Google for anti-competitive practices in violation of Section 4 of the Competition Act 2002 (Act). In January 2023, Google appealed the aforementioned CCI order to NCLAT. NCLAT found that Google is a dominant player and has abused its dominant position by imposing various restrictions under its agreements with original equipment manufacturers (OEMs). These included abusing the dominant position in general online search, linking the Google Chrome app and the YouTube app to the Play Store and thereby violating the provisions of Section 4(2)(e) of the Act. In addition, Google was found to have maintained its dominant position in the online search market, resulting in the denial of market access to competing search apps that violate Section 1.

4. Abu Dhabi investment authority receives approval from cci to invest in lenskart

CCI has approved an investment in Lenskart Solutions Private Limited (LSPL) from the Abu Dhabi Investment Authority on 23.03.2023. Platinum Owl C 2018 RSC Limited is a limited liability company incorporated in the Abu Dhabi Global Market (ADGM). She is acting in her capacity as Trustee for Platinum Jasmine A 2018 (Platinum Jasmine/Acquirer) incorporated under the laws of the ADGM by a Deed of Settlement dated 01/27/2019. The Abu Dhabi Investment Authority (ADIA) is the sole beneficiary of Platinum Jasmine. LSPL is a public company and was founded in 2008. LSPL is engaged in (a) the manufacture and sale of eyewear products, including eyeglasses, sunglasses, contact lenses and eyewear accessories, and (b) the wholesale of eyewear products.





Hospitality & Real Estate

1. Central motor vehicle rules amendment, 1989 - hybrid electric vehicles

The Department of Roads and Motorways (MoRTH) has issued a Notice numbered G.S.R. issued. 180I of 13 March 2023 (Notice) proposing a draft rule amending the Central Motor Vehicles Rules 1989 (CMV Rules Draft). Objections and/or suggestions regarding said draft CMV Rules are requested to be submitted within 30 (thirty) days from the date on which the notice was published in the Official Journal, d April 12, 2023. With the notice, various Categories of hybrid electric vehicles fall within the scope of the Central Motor Vehicles Rules 1989.

2. Addendum to the Large Port Dredging guidelines, 2021, to promote the concept of waste to prosperity

The Department of Ports, Shipping and Waterways (MoPSW) issued a statement through the Press Information Office dated 24 March 2023 stating that that an addendum to the The Dredging Guidelines for Major Ports, 2021 (Addendum) has been issued to examine the beneficial use of dredged material. The Addendum promotes the concept of "Waste to Wealth" in the dredging sector and examines the beneficial use of dredged material, including for purposes such as technical purposes such as civil works, environmental improvements such as beach maintenance, etc. The Addendum highlighted the need to provide potential bidders with data on factors such as soil types and their properties, amount of dredged material, disposal locations, etc. An additional guideline was proposed to provide prospective bidders with data on soil type, soil properties, dredged material, etc. in advance.

3. MakeMyTrip opens property listings to residents of cricket centres

MakeMyTrip, India's leading online travel company, aims to increase the inventory of homestay accommodation in select metropolitan cities and towns to meet increased demand due to the strong cricket season. We observed a significant increase in homestay accommodation searches in select cities across the country during October and November. "This bodes well and shows that cricket fans are more willing than ever to explore homestays as an accommodation option," said Parikshit Choudhury, Chief Business Officer, Alternate Accommodation & Customer Contact Group, MakeMyTrip.

4. Indian School of Hospitality forges new partnership with ICEX Spain Trade and Investment

Indian School of Hospitality (ISH), a premier hospitality institution in India, is thrilled to announce the signing of a Memorandum of Understanding (MoU) with ICEX Spain Trade and Investment. This partnership aims to evaluate and explore collaborations in hospitality education, gastronomy, and cultural exchange, reflecting both institutions' commitment to excellence and innovation.

This partnership heralds an era of boundless possibilities in the following domains:

1. Hospitality Education: ISH and ICEX will collaborate on programs that provide an immersive experience in Spanish gastronomy, foods, and wines, including tastings and presentations of Spanish pantry products.
2. Training Programs: Dedicated educational programs in Spanish gastronomy, wines, and food history will be developed and implemented, imparting in-depth knowledge and skills to the faculty and students of ISH.
3. Dissemination of ICEX Programs: ISH will champion ICEX programs and initiatives among its alums, forging a bridge for hospitality professionals to the plethora of opportunities ICEX offers.





Litigation & Dispute Resolution

1. If the arbitration clause cover all disputes, jurisdiction may not be limited to a particular dispute

In the case of *Agra Development Authority v. Baba Construction Private Limited*⁶, the Honble Allahabad High Court ruled that where the arbitration clause covers all disputes, jurisdiction cannot be limited to a specific dispute. In the case in question, the complainant, i. H. Agra Development Authority issued a tender for the construction of 52 luxury multi-storey apartments in Phase II, Taj Nagri, Agra. The defendant, i. H. M/s Baba Construction Private Limited, received the offer and accordingly the parties entered into an agreement according to which, in the event of a dispute between the parties, it had to be resolved through arbitration. The defendant had submitted an invoice video letter dated March 18, 2010 and requested the complainant to pay service tax on it in accordance with the terms of the contract. As the service tax was not paid, the complainant, according to her letter, appointed an arbitrator. There was no indication in the letter appointing the arbitrator that the arbitrator was appointed only to decide service tax disputes. Pursuant to the arbitrator's appointment, Complainant raised a preliminary objection that the arbitrator was appointed only to adjudicate the service tax dispute, which the arbitrator dismissed in an award dated 01/05/2012. Offended by the said 1/5/2012 award, the Appellant filed a request under Section 34 of the Arbitration and Arbitration Act.

2. An objection to the unilateral appointment of an arbitrator may be raised for the first time in a petition under Section 34 of the Arbitration & Conciliation Act 1996.

In the case of *Hanuman Motors Private Limited v M/s Tata Motors Finance Limited*⁷ the Honble High Court of Bombay ruled that an objection to the unilateral appointment of an arbitrator may be raised for the first time in a petition under Section 34 of the Arbitration and Conciliation Act 1996 become. In this case, the Respondent appointed the arbitrator objected to by the Plaintiff, see his letter. It was expressly stated that the Respondent should not appoint an arbitrator without the Plaintiff's consent. The said objection was also raised with the referee. Notwithstanding this objection, the Defendant continued to appoint the arbitrator, and the arbitrator entered the award.

3. A request under Section 12A of the Bankruptcy and Insolvency Act 2016 for the withdrawal of CIRP may be made even before the COC is constituted

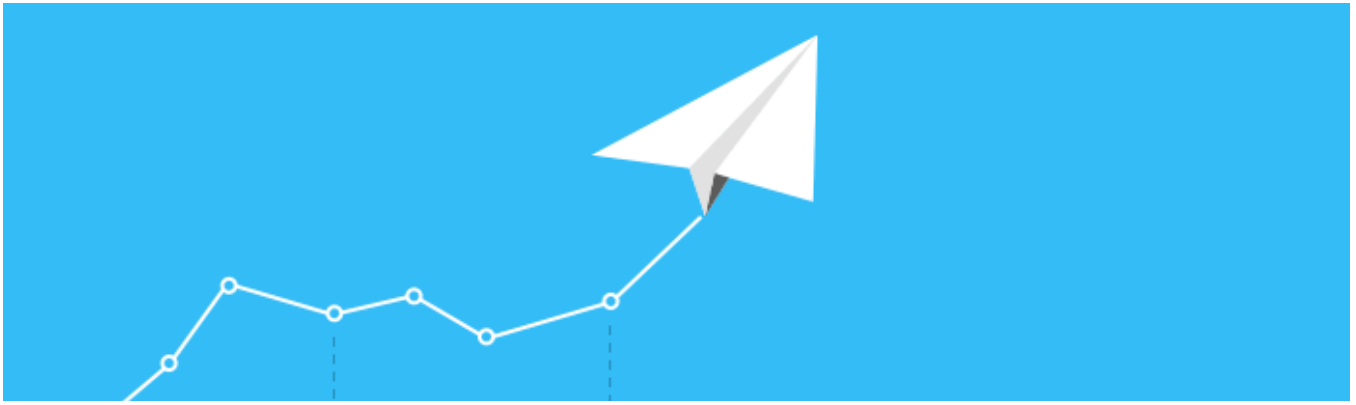
The Honble Supreme Court of India in *Abhishek Singh v Huhtamaki PPL Ltd. & call* [Civil Appeal No. 2241 of 2023] found that a motion under Section 12A of the Insolvency and Bankruptcy Act 2016 (IBC) to withdraw the Corporate Insolvency Resolution Process (CIRP) may be considered prior to the formation of the Creditors' Committee (COC). . The Honble Supreme Court relied on the Apex Court ruling in *Swiss Ribbons (P) Ltd case 11* of the NCLT Rules, 2016 in this order to allow/deny a motion for withdrawal or settlement even though no COC was established. The Court held that the Honble NCLT erred in finding that Regulation 30A had no mandatory effect and that maintaining it would amount to defeating the very purpose of replacing Regulation 30A in the IBBI Regulations to nullify.



4. Applicant with a successful resolution is not evaluated to request the approved resolution plan.

The Honble National Company Law Appellate Tribunal (NCLAT), Chennai Bench, in the case of M.K. Rajagopalan vs. S. Rajendran & Anr. [Enterprise Complaint (AT) (CH) (INS) No. 58 of 2023] ruled that an unsuccessful resolution applicant has no standing to contest a resolution plan (or its implementation) approved by the competent authority. In this case M.K. Rajagopalan (Unsuccessful Resolution Applicant) was one of the potential applicants for corporate debtor resolution, i.e. H. Vasana Health Care Pvt. Ltd., whose plan was rejected by the Creditors' Committee (COC). The COC approved the plan of ASG Hospital Private Ltd (applicant with successful settlement) and the plan was subsequently approved by the Honble National Company Law Tribunal by order of 02/03/2023 (order under appeal). The complainant was angry at the contested decision and appealed, alleging that the resolution plan selection process was unfair.





Start-Up Advisory & Consultancy

1. Chanakya Fund Trust announced the launch of its first multi-industry fund Chanakya Opportunities Fund

A Rs 100 crore, designed to invest in small and medium-sized companies. The fund, created by Kresha Gupta, a 24-year-old chartered accountant based in Ahmedabad, comes with a greenshoe option of an additional Rs.100 crore. The fund will invest in profitable SME companies with high opportunity potential in unorganized sectors. About 51% of the capital will be invested in unlisted SME companies, so-called start-ups in manufacturing, consumer goods and technology, the company said in a press release. StepTrade Share Services is the investment manager and sponsor of the Chanakya Fund Trust, managed by Gupta and Ankush Kumar Jain. The Chanakya Opportunities Fund I, a closed-end fund, will invest in around 25 companies with ticket sizes ranging from 2 crore to 10 crore rupees.

2. InspeCity raises \$1.5M from Speciale Invest

InspeCity, a space tech startup, said it has raised \$1.5 million in a pre-seed funding round led by early-stage venture capital firm Speciale Invest. Antler India and Veda VC co-led the round while Anicut Capital, DeVC India and others participated in the round. The startup will use the funds to develop its tech stack and hiring talent. Founded in mid-2022, InspeCity is trying to build the first city in a suitable orbit between the earth and the moon to address “the problem of resource scarcity on earth”.

3. Menhood raises Rs 2.35 Cr from Velocity Men’s grooming brand

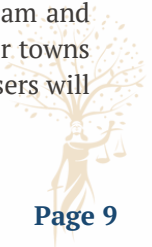
Menhood said it has raised Rs 2.35 crore in multiple tranches from Velocity, a revenue-based financier. The funds would help the company expand its product lines and enter new markets besides allowing it to budget more for inventory and marketing purposes. Menhood claims it has a 15% repeat customer rate every month while three-fourths of its customers opt for prepaid orders. The company is looking to expand its presence on major e-commerce platforms such as Amazon, Nykaa, TataCliq, Myntra and Flipkart, besides strengthening its own website.

4. Justdial partners with Maharashtra government unit

Hyperlocal search engine Justdial announced its partnership with Maharashtra Small Scale Industries Development Corporation Limited (MSSIDC) to enable the businesses registered with the latter to go online. These include small-scale industries and handicraft artisans. Under the agreement, MSSIDC-accredited businesses will be provided with verified tags, which would be made visible on Justdial’s platforms, in an attempt to improve their visibility and credibility.

5. Myntra enables search in vernacular languages

Ecommerce platform Myntra has introduced the vernacular search feature where users will be able to enter their queries in 10 regional languages besides Hindi. These include Telugu, Kannada, Bengali, Tamil, Malayalam and ‘Hinglish’ (a combination of Hindi and English). This would enable it to penetrate deeper into the smaller towns and cities given that about a fifth of its search queries are in non-English languages. In the next phase, users will be able to enter a regional language query using English keys.



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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