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DPIIT Hits Pause on Public Notice concerning Music Playing at Weddings Amid Novex Case Appeal

The DPIIT has issued a new notification that puts on hold the previous Public Notice dated July 24, 2023. However, this hold is contingent upon the outcome of an appeal currently pending before the Punjab and Haryana High Court concerning the case of Novex Communication Pvt. Ltd. v. Union of India.

The July 2023 notice instructed copyright societies to avoid any actions that contradict Section 52 (1)(za) to mitigate potential legal consequences. Additionally, it cautioned the public against adhering to any unwarranted requests from individuals, organizations, or copyright societies that may violate this provision. As previously mentioned, the new DPIIT notification for 2024 continues to uphold the 2023 public notice in abeyance, pending the resolution of the appeal, which will determine whether the 2023 notice will be sustained or revoked.

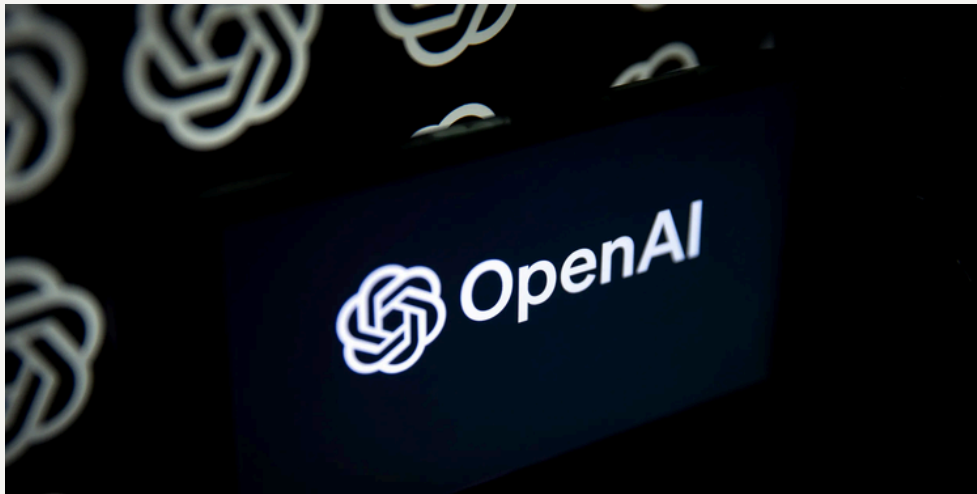
The Novex case, which is central to this new notification, led to the nullification of the 2019 public notice. This notice claimed that the use of sound recordings during religious ceremonies, including marriage processions and other wedding-related festivities, did not constitute copyright infringement and thus did not require licensing. The Court articulated two main reasons for this ruling (see paragraphs 14-16): first, the notice presented an excessively broad interpretation of the provision, which should be applied with specificity to individual cases and facts; second, it encroached upon the principle of separation of powers, as it is not within the purview of the executive to impinge upon the functions of the legislative and judicial branches.

Citation: CWP No. 28758 of 2019 (O&M)

Tags (Industry/Practice Area) - #novexcommunications #indianweddings #weddings #iprs #ppl #license

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Delhi High Court Issues Notice to OpenAI in the ANI Copyright Infringement Case

ANI has sought an interim injunction against OpenAI for the unauthorized use and storage of its copyrighted work in training its large language models, including ChatGPT. ANI claims that this usage constitutes copyright infringement and has filed a lawsuit, having previously issued a notice to OpenAI, which acknowledged the use of ANI's content. ANI also raised concerns about false attribution and the potential dissemination of misinformation.

In response, OpenAI contested the suit on two primary grounds. First, it argued that the lawsuit is not maintainable because OpenAI's servers are not located in India. Additionally, OpenAI stated that the plaintiff has not provided evidence of content reproduction within the country. OpenAI also noted that no injunctions have been granted against it in ongoing cases in the United States, Canada, and Germany. The court has acknowledged OpenAI's statement that it has blocked ANI's website to prevent content use.

OpenAI is relying on an "opt-out" defense, allowing for website blocking upon notification of infringement. However, ANI's counsel has pointed out ongoing difficulties due to the reproduction of similar content by other websites.

Citation: CS(COMM) 1028/2024, Delhi High Court

Tags (Industry/Practice Area) - #openai #ai #artificial intelligence #ANI #news #copyright #infringement #intellectual property

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Monster Energy Company vs The Registrar Of Trade Marks

The appellant had submitted an application challenging the order issued by the respondent, which declined to register the appellant's trademark "SUPER FUEL." The basis for this refusal was the assertion that the appellant's trademark is identical to the existing registered trademark "FUEL." In contrast, the appellant contended that "SUPER FUEL," intended for registration under Class 32 for non-alcoholic beverages, is distinguishable from "FUEL," which is registered for categories including beers, mineral waters, fruit drinks, and syrups.

The Court found merit in the appellant's argument, noting that the respondent did not adequately consider the differences between the products. The Court ruled that the trademark should first be published in the trademark journal, allowing for any oppositions to be resolved based on their merits in accordance with applicable law. As a result, the Court quashed the impugned order and directed the respondent to initiate the publication process for the trademark.

Citation: C.M.A (TM) No. 3 of 2024. Madras High Court

Tags (Industry/Practice Area) - #monster #energydrinks #trademark #trademarkregistry #intellectualproperty

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The US\$18.3 million infringement award for the wearable blanket

An Arizona federal judge has rejected Top Brand LLC’s motion for a new trial following a jury award of \$18.3 million to Cozy Comfort Co. The award was granted in connection with the infringement of two design patents and the “Comfy” trademarks associated with “The Comfy” hooded wearable blanket, which gained visibility through its feature on the television program “Shark Tank.”

Top Brand contended that a new trial should be granted in light of the Federal Circuit's decision on May 21, 2024, in the case of LKQ Corp. v. GM Global Tech. Operations LLC. This decision introduced a revised framework for assessing the non-obviousness of design patents. Top Brand argued that, under this new framework, Cozy Comfort’s design patents are invalid, thereby asserting that their product, the “Tirrinia” large wearable hooded, does not infringe on those patents. U.S. District Judge Steven Logan expressed his disagreement, stating that while the LKQ decision may have relaxed the standard for obviousness, it did not reach a level of disruption that would render the jury instructions in this case a miscarriage of justice. Judge Logan noted that the jury instructions provided in this case reflected the precise analysis for obviousness as mandated by LKQ. Consequently, he upheld the jury's verdict and denied Top Brand’s request for a new trial.

Citation: Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. IPR2020- 00534.

Tags (Industry/Practice Area) - #trademarks #intellectualproperty #infringement #cozycomforts # trademarkprotection

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