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The *Centre for Development of Intellectual Property and Research (CDIPR)* is a premier institution dedicated to Intellectual Property Rights (IPRs). Operating under the *Naovina Development of Intellectual Property and Research Foundation* as a registered Non-Governmental Organisation (NGO), CDIPR is dedicated to promoting and protecting Intellectual Property Rights (IPRs) within India, thereby fostering a conducive environment for innovation and creativity. In today's global landscape, where intellectual property serves as a cornerstone for economic growth, technological advancement and cultural development, CDIPR plays a pivotal role in driving forward-thinking policies, research and education. We are a community, Connecting 2200+ Members & 12,300+ Global Academicians on Intellectual Property Rights. Please visit our website (<https://cdipr.icchr.in>) for more details.

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Cover Story

India's Traditional Knowledge: A Landmark Bill for Protection and Preservation

India's rich tapestry of traditional knowledge, honed over millennia, is an intrinsic part of daily life. Whether it's the time-tested practice of sitting cross-legged to aid digestion, the use of mulethi (liquorice) to ease coughs or applying haldi lep (turmeric paste) for wounds, this age-old wisdom is deeply embedded in our culture. This reservoir of knowledge is not only about customs but also includes ingenious solutions (jugaad) that make our lives easier.

Yet, this invaluable tradition faces a growing threat: misappropriation. Often shared orally and lacking formal documentation, traditional knowledge is susceptible to exploitation. A recent example involves a German company that attempted to claim "discovery" of leaf-based tableware, a concept deeply rooted in ancient Indian practices documented in Ayurveda. Such incidents underscore the risks of commercializing traditional knowledge without proper acknowledgment of its origins.

In response to these challenges, Shashi Tharoor, a distinguished Member of Parliament, introduced The Protection of Traditional Knowledge Bill, 2022 in the Lok Sabha. This bill marks a significant step towards safeguarding India's cultural heritage. Key features of the bill include:

- 1. Recognition and Protection of Rights:** The bill aims to formally recognize the rights of communities holding traditional knowledge and establish a National Authority to support them. It seeks to combat the misappropriation of this knowledge by external parties.
- 2. Clear Definition of Ownership:** The bill clarifies what constitutes traditional knowledge and establishes ownership rights. It designates the Union of India as the owner of traditional knowledge within its territory. For knowledge practiced across multiple states, joint ownership among the relevant state governments is acknowledged.
- 3. Acknowledgment of Contributions:** Communities that contribute to traditional knowledge are given specific rights, including self-determination. These communities are required to register as knowledge societies, which will grant them non-exclusive, perpetual licenses for both commercial and non-commercial use of their knowledge.



Cover Story

4. Preservation of Heritage: By formalizing the recognition and protection of traditional knowledge, the bill aims to consolidate and preserve India's cultural heritage, preventing its exploitation.

This proposed legislation represents a major leap forward in preserving and honoring India's traditional wisdom. As the bill moves through the legislative process, its impact on protecting cultural heritage and balancing innovation with tradition will be closely watched.

Spotlights

US Chamber of Commerce Releases 12th International IP Index: India Ranks 42nd

The US Chamber of Commerce unveiled the 12th edition of its International IP (Intellectual Property) Index, revealing India's position at 42nd out of 55 countries, with an overall score of 38.64 percent. The United States leads the index, followed by the United Kingdom and France.

Patrick Kilbride, Senior Vice President of the U.S. Chamber of Commerce's Global Innovation Policy Center, commented on the findings, stating, *"The Index highlights the advantages that economies can achieve by adopting robust and enforceable IP standards. Policymakers in India are increasingly recognizing the crucial link between IP rights and economic activity, which will enhance India's global competitiveness."*

The Index evaluates the IP frameworks of top global economies, noting significant improvements in IP practices in 20 countries, including Saudi Arabia, Brazil, and Nigeria. However, 27 economies showed no change, while eight countries, including Ecuador, experienced declines due to weakened IP enforcement.

Despite its ranking, India is noted for its substantial R&D and IP-based tax incentives, as well as its strong efforts to raise awareness about the negative impacts of piracy and counterfeiting. The country is recognized as a global leader in providing targeted administrative incentives for the creation and use of IP assets, particularly for SMEs.

India has also taken significant steps to enhance enforcement against copyright-infringing content and has established a commendable framework to promote the better understanding and utilization of IP assets. Nevertheless, further progress is needed to address ongoing challenges and strengthen IP protection.



Spotlights

Global Partnership on Artificial Intelligence Adopts New Delhi Resolution

The **Global Partnership on Artificial Intelligence (GPAI)** reached a significant milestone by unanimously adopting the New Delhi resolution. This landmark decision was announced by Rajeev Chandrasekhar, Minister of State for Electronics and Information Technology, who emphasized the resolution's importance in shaping the future of AI.

"The New Delhi declaration positions GPAI at the forefront of AI innovation and collaboration," Chandrasekhar said. *"It sets the stage for member countries to work together on AI applications in critical sectors like healthcare and agriculture."*

The resolution reflects a shared commitment among GPAI members to lead global discussions on AI governance, ensuring that AI remains safe and trustworthy. Chandrasekhar highlighted that GPAI will prioritize inclusivity, aiming to integrate countries from the Global South and extend the benefits of AI to a broader audience.

Looking ahead, Chandrasekhar stressed the need for like-minded nations to expedite the development of detailed AI regulations. "By the time GPAI convenes next year in Korea, it is crucial that we have well-defined regulations in place," he said.

He also noted the global reach of AI and the importance of safeguarding all internet users from potential risks. "As the global internet expands, it's vital that all users have access to safe and trustworthy AI," Chandrasekhar added.

The New Delhi resolution marks a pivotal step in fostering international collaboration and setting the groundwork for a unified approach to AI governance and development.

India Grants Over 1 Lakh Patents in FY 2023-24: IP Office Enhances Efficiency

India has achieved a notable milestone in intellectual property (IP) with the Controller General of Patents, Designs and Trademarks, Unnat Pandit, announcing that the country granted 1.03 lakh patents during the financial year 2023-24. Speaking at an ASSOCHAM event on Thursday, Pandit assured that the IP Office is committed to eliminating delays and ensuring the timely clearance of patent applications.

Pandit highlighted that 40 percent of applications were processed within 30 months of the request for examination. "Our goal is to eliminate delays in the IP office. We are focused on ensuring patents are granted efficiently and utilized by applicants to generate economic value," Pandit stated.

With all previous backlogs cleared, the IP Office now aims to review and hear new applications within 30 to 36 months. This commitment reflects a significant improvement in processing times and aligns with the office's mission to streamline operations.



Spotlights

The Ministry of Commerce and Industry noted that a new technology seeks IP protection in India every six minutes. In the past year, the patent office granted over one lakh patents, averaging 250 patents granted daily.

Additionally, the newly notified Patent Rules, 2024, introduce several changes aimed at simplifying the patent process and fostering a supportive environment for inventors. Key updates include the introduction of a “Certificate of Inventorship” to recognize the contributions of inventors and a reduction in the time limit for submitting foreign application filing details from six months to three months following the issuance of the first examination report.

These updates reflect India’s ongoing efforts to enhance its IP landscape, ensuring a more efficient and accessible system for managing and protecting intellectual property.

WIPO Approves Historic Treaty on IP, Genetic Resources and Traditional Knowledge

In a landmark development for global intellectual property (IP) rights, member states of the World Intellectual Property Organisation (WIPO) approved a new Treaty on IP, genetic resources, and associated traditional knowledge (TK) in May 2024. This treaty is the result of negotiations that began in 2001 which introduces significant advancements in the protection and management of TK and genetic resources with a strong focus on the rights of indigenous peoples and local communities.

It aims to enhance the transparency and quality of the patent system concerning genetic resources and traditional knowledge. It seeks to prevent erroneous patents on inventions that are not novel or inventive by ensuring that the origins of genetic resources and associated TK are properly disclosed. This is crucial as TK, defined by WIPO as the know-how, skills, and practices developed and passed down by indigenous communities, forms the core of their cultural and spiritual identity.

While conventional IP rights do not directly protect TK, inventions derived from such knowledge can be eligible for IP protection. The treaty addresses the challenge of misappropriation of TK and biopiracy by establishing an international legal framework. It mandates that patent applicants disclose the origin of the genetic resources and associated TK used in their inventions. If the origin is unknown, applicants must declare the accuracy of their knowledge.

Key provisions of the treaty include:

- **Disclosure Requirements:** Articles 3.1 and 3.2 mandate that patent applicants must disclose the origin of genetic resources or the source of associated TK. If the origin is not known, applicants must provide a declaration asserting the accuracy of their information.
- **Database Establishment:** Contracting parties may create databases of genetic resources and TK to facilitate patent searches and examinations. These databases will be developed with safeguards in consultation with indigenous peoples and local communities.



India has been proactive in safeguarding TK through initiatives like the Traditional Knowledge Digital Library and protections under the Indian Patents Act and the Biological Diversity Act. The new WIPO Treaty is expected to bolster these protections further, potentially leading to updates in domestic legislation to incorporate mandatory disclosure requirements.

The treaty marks a significant step forward in the global effort to protect traditional knowledge and ensure that the benefits of genetic resources are shared fairly with the communities that contribute to their development.

Analysis

Legal Trends And Insights : Evolving Landscape of Intellectual Property Rights In India And Beyond

The rapid pace of technological advancement and globalization has brought Intellectual Property Rights (IPR) are at the forefront of legal discourse worldwide. With India becoming a hub for innovation, the landscape of IP law in the country is rapidly evolving. This section highlights key trends shaping the IPR regime in India and contrasts these developments with global examples to illustrate the changing dynamics of intellectual property protection.

1. Strengthening of Patent Laws in India: India's patent regime has come a long way since the enactment of the Indian Patents Act, 1970, which saw significant amendments in 2005 to comply with the **TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights)** under the **World Trade Organization (WTO)**. The 2005 amendments expanded patentable subject matter to include pharmaceuticals, agrochemicals, and biotechnological inventions, areas that were previously excluded.

- **Recent Developments:** In recent years, India has witnessed an increase in patent applications, reflecting its growing importance as a global innovation hub. According to the Annual Report of the Office of the Controller General of Patents, Designs, Trademarks, and Geographical Indications (CGPDTM), India received over 66,440 patent applications in 2022, a 27% increase from the previous year. However, while the number of applications is rising, India still lags behind countries like the U.S. and China in terms of granted patents.
- **Key Challenges:** One of the major hurdles in India's patent regime is the Section 3(d) provision of the Indian Patents Act, which prevents the patenting of new forms of known substances unless they show significantly enhanced efficacy. This provision has been a bone of contention, especially for pharmaceutical companies, as evidenced by the **Novartis v. Union of India** case in 2013, where the Supreme Court of India denied a patent for the cancer drug Glivec, ruling that it was a new form of an existing substance without increased therapeutic efficacy.



Analysis

- **International Comparison:** Countries like the U.S. have a more lenient approach to pharmaceutical patents, as seen in the Hatch-Waxman Act which encourages innovation while facilitating the entry of generic drugs. This stark difference has led some critics to argue that India's patent regime is more restrictive. However, supporters of Section 3(d) argue that it plays a vital role in ensuring access to affordable medicines, particularly in a developing country like India.

2. Emerging Trends in Trademark Law: India has seen a sharp rise in trademark filings, signaling the growing importance of brand protection in a highly competitive market. The Trademarks Act of 1999, which was updated to align with TRIPS, allows for the protection of both traditional trademarks (such as logos and names) and non-traditional marks, such as sound and shape marks.

- **Notable Trends:** The rise of e-commerce and the digital economy has significantly impacted trademark law. Online platforms, such as Amazon and Flipkart, have led to a surge in cases of trademark infringement, as counterfeit products are often sold under the guise of established brands. In response, India has seen an uptick in legal battles over trademark dilution and infringement, with companies increasingly investing in protecting their digital presence.
- **Case Study:** The **Amul v. ITC** case in 2020 is an example of how Indian courts are dealing with trademark infringement in the digital realm. The **Gujarat Cooperative Milk Marketing Federation** (owner of the Amul brand) sued ITC for using a similar "Taste of India" tagline, claiming it diluted brand equity. The court ruled in favour of Amul, reinforcing the importance of protecting the brand identity in the competitive Indian market.
- **International Outlook:** Globally, trademark law is adapting to the rise of non-traditional trademarks like shape, colour, and sound marks. In 2017, Apple succeeded in registering the design of its flagship Apple Store as a trademark with the European Union Intellectual Property Office (EUIPO), demonstrating the growing importance of non-traditional trademarks. India's trademark law, though progressive, may still need to catch up with global trends like these.

3. Copyright in the Digital Age: The explosion of digital content has posed significant challenges to copyright law in India. The Copyright Act of 1957, last amended in 2012, introduced several provisions to deal with copyright in the digital space, including protections for digital rights management (DRM) and intermediary liability.

- **Key Trends:** With the rise of streaming platforms and social media, copyright infringement has become a pervasive issue. Platforms like YouTube, Instagram, and OTT services have become hotspots for the unauthorised use of copyrighted material. A recent trend in India is the proliferation of copyright disputes over digital content, particularly concerning film, music, and television shows.
- **Case Study:** A landmark case in this space is **Eros International Media Ltd. v. Bharat Sanchar Nigam Ltd. (BSNL)**, where Eros, a major film production company, sued BSNL for failing to block websites that hosted pirated versions of its films. The Delhi High Court ruled in favour of Eros, emphasizing the responsibility of internet service providers to ensure that copyrighted content is not freely distributed online.



Analysis

- **International Context:** India's copyright framework has been influenced by international agreements, including the WIPO Copyright Treaty (WCT). Globally, countries like the U.S. have seen notable developments in copyright law, particularly with the rise of fair use doctrines. The Google v. Oracle case in 2021, which ruled that Google's use of Oracle's Java API constituted fair use, has set a significant precedent for copyright disputes in the digital realm, highlighting the need for India to re-evaluate its own digital copyright policies.

4. The Impact of Geographical Indications (GI): India has a rich tradition of protecting Geographical Indications (GI), which are crucial for safeguarding the cultural heritage and reputation of regional products. The Geographical Indications of Goods (Registration and Protection) Act, 1999 provides robust protection for products such as Darjeeling tea, Kanchipuram silk, and Mysore sandalwood.

- **Key Developments:** India's GI regime has been successful in promoting indigenous products in the global market. For instance, in 2021, the Basmati rice controversy between India and Pakistan over GI status brought attention to the importance of protecting unique regional products on an international scale. The European Union (EU) has strict GI protections, and India's ongoing negotiations with the EU for a **Free Trade Agreement (FTA)** may lead to further strengthening of India's GI laws.
- **Challenges:** Despite the success of GI registrations, enforcement remains a challenge in India. Counterfeiting of GI products, especially in the case of handloom textiles, is rampant, leading to the erosion of brand value for genuine producers. Effective enforcement mechanisms need to be strengthened to ensure that GI laws serve their intended purpose.

5. International IP Cooperation and Enforcement: India's role in the global IP landscape is becoming increasingly significant as it expands its participation in international IP frameworks. India is a signatory to the Paris Convention, Berne Convention, and Madrid Protocol, among others, which have streamlined international IP protection and enforcement.

- **Recent Initiatives:** India's accession to the **Madrid Protocol** in 2013 has made it easier for Indian businesses to protect their trademarks globally, with over 1,000 international applications filed from India annually since its adoption. Additionally, India's collaboration with WIPO has led to training programs aimed at enhancing the capacity of IP professionals and improving enforcement standards.

While India's IP laws have made significant strides, the challenges of enforcement, particularly in digital spaces and cross-border disputes, remain areas that require attention. Collaborative efforts with international bodies and countries are vital for bolstering IP protection and ensuring the effective enforcement of laws.

While India has made significant progress in strengthening its IPR regime, particularly in patents, trademarks, copyrights, and GIs, challenges remain, particularly in enforcement and adapting to global trends. As India continues to position itself as a key player in the global IP arena, legal professionals must stay abreast of both domestic reforms and international best practices to protect and promote innovation effectively.



Analysis

Global IP Collaborations: *Recent Success Stories Across Sectors*

URSB and WIPO Collaborate to Enhance IP Awareness in Uganda

The *Uganda Registration Services Bureau (URSB)*, in partnership with the *World Intellectual Property Organization (WIPO)*, has launched a series of roving seminars under the *Technology Innovation Support Centres (TISCs)* initiative, aligned with the *Patent Cooperation Treaty (PCT)*. This initiative aims to enhance intellectual property awareness among students, researchers, and innovators in universities across Uganda. The seminars provide practical insights into the patent application process, emphasizing the importance of IP protection, particularly patents. By equipping young entrepreneurs and researchers with the knowledge to safeguard their innovations, the program empowers them to navigate the IP landscape and leverage IP tools for commercial success. Discussions include the role of the PCT, patents for universities, and accessing patent information. In addition to promoting IP awareness, the seminars foster collaboration between academic institutions and the private sector, encouraging partnerships that can drive innovation. Experts from URSB and WIPO lead interactive sessions, offering real-world applications and success stories. *Nyalleng Pii*, **Senior Program Officer**, from WIPO, emphasized the program's goal of building an inclusive global IP ecosystem, while *Gilbert Agaba*, **Director Intellectual Property**, from URSB, highlighted the ongoing support available to participants. The inaugural seminar took place at **Busitema University**, with upcoming sessions at **Makerere University** and **Mbarara University of Science and Technology**. This collaboration not only strengthens Uganda's IP framework but also nurtures the next generation of innovators, contributing to the country's economic development.

CSIR-NCL and Denmark Patent Office Explore Biotech and MedTech Patenting

On August 30, 2024, National Chemical Laboratory Pune, (CSIR-NCL) hosted a roundtable discussion on "*Patenting of Inventions from Biotechnology and Biomedical Fields*" in collaboration with the Office of the **Controller General of Patents, Designs, and Trade Marks (CGPDTM)** and the **Danish Patent and Trademark Office (DKPTO)**. The event aimed to explore patenting practices in biotechnology and biomedical sectors, comparing insights from India and Denmark. The focus was on understanding challenges in patenting advanced technologies and whether updates in the patent examination process are necessary to keep pace with evolving innovation.



Analysis

Attendees included officials from Indian Patent Offices, Danish Patent Office examiners, representatives from CSIR labs, Pune-based national labs, and entrepreneurs with patent filings in Denmark. Key discussions were initiated by Dr. Unnat Pandit, Controller General of CGPDTM and Dr. Louise Boisen, IPR Counsellor at the Royal Danish Embassy. Moderated by Dr. Nitin Tewari, Head of CSIR-NCL's Intellectual Property Group, the discussions covered biotech patent examination practices in India, Danish patenting practices under the European Patent Convention, and CSIR-NCL's historic contributions to IP, including landmark cases on Turmeric, Basmati, and Neem. The roundtable underscored the need for clearer guidelines on biotech and MedTech patents, opportunities for commercialization, and further collaboration on biological material deposition in patents. The event concluded with a call for ongoing dialogue to refine patenting practices and boost innovation in the biotech and MedTech fields.

OPPO and Ericsson Sign Global 5G Patent Cross-Licensing Agreement

July 16, 2024, **OPPO** and **Ericsson** announced a landmark global cooperation agreement encompassing patent cross-licensing, technical collaboration, and market expansion initiatives. This agreement covers standard-essential patents (SEPs) crucial for cellular communication technologies, including 5G. The deal highlights the mutual respect for intellectual property between the two companies and aims to strengthen the long-term IP ecosystem. OPPO's **Chief Intellectual Property Officer, Feng Ying**, emphasized the company's commitment to fair licensing practices and resolving IP disputes through constructive negotiations, while reinforcing its dedication to advancing technology standards. As a leader in 5G innovation, OPPO has filed over 103,000 patent applications globally and holds more than 57,000 granted patents, with 91% of these being utility patents. The World Intellectual Property Organization (WIPO) ranked OPPO ninth in Patent Cooperation Treaty (PCT) applications in 2023. The company has declared over 3,700 5G patent families to the European Telecommunications Standards Institute (ETSI) and submitted more than 12,000 standard documents to the 3rd Generation Partnership Project (3GPP). OPPO's leadership in 5G SEPs is further recognized by reports from the China Academy of Information and Communications Technology (CAICT) and IPlytics, solidifying its position as a global frontrunner in 5G SEP strength.



Analysis

CP PLUS and L&T Semiconductor Collaborate to Develop Indigenous AI IP Solutions

July 14, 2024, **CP PLUS** and L&T Semiconductor Technologies (**LTSCCT**) announced a strategic partnership to develop Indian IP System-on-Chips (**SoCs**) and advanced AI IP CCTV products under the guidance of the Ministry of Electronics & Information Technology (**MeitY**). This collaboration supports the **Make in India** and **Design in India** initiatives, aiming to strengthen the domestic surveillance technology sector while ensuring high standards of data security and technological self-reliance. The agreement was signed in the presence of key figures from MeitY, CP PLUS, and LTSCCT, including *Dr. Sunita Verma* from MeitY, *Aditya Khemka*, **Managing Director** of CP PLUS, and *Sandeep Kumar*, **CEO** of LTSCCT. The partnership focuses on developing high-performance SoCs tailored for the Indian surveillance market, leveraging LTSCCT's expertise in semiconductor technology and CP PLUS's market insights and manufacturing prowess. By producing locally designed and manufactured products, this initiative is expected to contribute significantly to India's GDP, generate numerous job opportunities, and position India as a key player in the global surveillance technology market. The collaboration aligns with the broader vision of **Atmanirbhar Bharat**, promoting self-reliance and technological autonomy. The commitment to data security and cyber protection will be central to these efforts, ensuring the development of world-class AI IP CCTV solutions for both Indian and international markets.

AI and IP : The Ownership Conundrum of Copyright Rights

As the AI system generates content from music to artwork, a crucial question emerges about ownership of these creations. Can AI be the owner of the work they generate? To answer this question, we need to look into the Copyright Act of 1957. According to this act, the author of the work is considered to be the first owner of the copyright. Author as defined in this act for computer-generated work is the person who causes the work to be created. This can have two interpretations.



Analysis

First, it is the user who causes the work to be created by giving commands to AI and secondly, it could mean the developer of AI that generated the work. Thus, AI has not been recognized as an author in Indian Laws. This piece looks into the ongoing debate about the ownership of AI-generated work.

In this quest for ownership of AI-generated work, it is crucial to look first at whether AI-generated work is eligible to get copyright protection. For granting a copyright one of the essential aspects is originality of the work. It is argued that since the work generated by AI is based on information taken from already pre-existing sources available across the internet, it is incapable of producing original work. However, with generative AI coming into the picture with sophisticated algorithms, it can be possible for AI to generate some sufficiently unique work with the help of significant human input.

Now if AI is eligible for copyright protection, who would be the copyright owner is the next big question. Would it be the user who generated the date by giving a prompt on the AI or who developed the AI? There can be many answers to this question. If the content generation required a prompt and detailed command from the user then it can be said that the user could own the owner. But there could also be a possibility that by simply pressing a button the Ai generated the work. So there could be conflict about the ownership.

There can be different opinions about to whom copyright should be given. Since the developers of the AI have invested a significant amount of time, resources, and expertise they should logically be the owner of the content. Giving these rights would also act as an incentive to create a more advanced AI system. This would protect programmers' rights and would not lead to the devaluation of their work. However, this does not take away the rights of the users who are actively giving commands with specifications that lead to the generation of output. In certain AI tools, when the user is paying to use it, they should have a right over the content generated. According to the present 'Terms of Use' of AI's like ChatGPT, the owner of the content is the user and not the developer. In most of the cases, the developer could already have the AI patented and thus the right of ownership of content should go to user.

This problem requires new and creative solutions. There Could be new approaches to solving this problem that would recognize the contribution of both the developer and the consumer.



Notable Case Digests

Adidas Am., Inc. v. Thom Browne Inc., 599 F. Supp. 3d 151 (S.D.N.Y. 2022)

In 2018, the American fashion brand Thom Browne sought a trademark for its sneakers in Europe, featuring a distinctive red, white, and blue stripe. This move by the luxury brand caught the attention of the global German sportswear giant Adidas, identifying potential competition in their market. Adidas, known for taking legal action to protect its striped brand, had previously secured victories against companies like Sketchers and Juicy Couture. Following tradition, Adidas initiated legal proceedings against the American company in the summer of 2021, alleging trademark design infringement and seeking \$867,225 in damages, along with \$7,011,961 in profits. However, the court ruled in lieu of Thom Browne due to a lack of evidence supporting design infringement. Thom Browne argued that their iconic three-parallel stripe design had been a part of their brand for 15 years. Additionally, they claimed to have reached out to the then-CEO of Adidas in 2007, alleging intentional silence from Adidas during a period of significant growth for Thom Browne. Ultimately, the court sided with Thom Browne in this legal dispute.

Viacom Int'l Inc. v. Youtube, Inc., 940 F. Supp. 2d 110 (S.D.N.Y. 2013)

In 2007, Viacom lodged a claim against YouTube, alleging "brazen" copyright infringement due to the hosting of over 150,000 clips from Viacom's television shows and owned properties on the platform. Viacom sought damages amounting to a whopping \$1 billion. YouTube contended that, as an online service provider, they were not legally liable for copyright-infringing materials hosted on their website a pivotal point in the lawsuit. The judge ordered the submission of transcripts and logs of YouTube's internal communication to Viacom for scrutiny. This evidence appeared incriminating and could have led to a decisive victory for Viacom if not for a critical misstep. Before the trial, in what can only be described as a blunder, Viacom engaged 18 marketing agencies to create "unofficial accounts" and upload content anonymously, forming part of a guerrilla marketing campaign. Compounding the issue, Viacom had no means of identifying which accounts belonged to them, resulting in a situation where Viacom was inadvertently suing a company to remove content that Viacom itself had uploaded.



Notable Case Digests

Seizing on this error, YouTube argued that since they could not discern Viacom's accounts, it would be unreasonable to expect them to differentiate between infringing and non-infringing content. This misjudgment proved detrimental to Viacom's case, leading to a ruling in favour of YouTube a fortuitous turn of events that potentially saved the company from severe repercussions.

BlackBerry Ltd. v. Typo Products LLC, Case No. 14-cv-00023-WHO (N.D. Cal. Mar. 28, 2014)

Typo found itself entangled in a legal dispute when BlackBerry sued it for the alleged design infringement of its iconic QWERTY keyboard. On January 3, 2014, BlackBerry entered legal proceedings against Typo Products, citing design infringement of their renowned QWERTY keyboard. Initially, the court granted BlackBerry a preliminary injunction, acknowledging their patented and registered design for the keyboard. Initially, the court granted BlackBerry a preliminary injunction, acknowledging their patented and registered design for the keyboard. Despite this, Typo Products continued selling the keyboard as an iPhone add-on globally and through other channels, despite the court's directive to cease.

Consequently, Typo faced a fine of USD 860,000, inclusive of attorney fees, and a contempt of court case, payable to BlackBerry. Undeterred, Typo proceeded to release another version of the discontinued product, named "Typo 2." Despite their claim that it did not fall under the preliminary injunction, this move prompted BlackBerry to file another lawsuit against them for continuing to encroach upon their design patent. Ultimately, a resolution was reached through a settlement, compelling Typo Products to indefinitely discontinue the global sale of their products for phones smaller than 7.9 inches.

Fairey v. Associated Press, 09 Civ. 1123 (AKH) (S.D.N.Y. Aug. 2, 2010)

The iconic "Hope" poster gained traction during President Barack Obama's first presidential campaign in 2008. This artwork was crafted by the renowned street artist Shepard Fairey and became a symbol closely associated with Obama's campaign. However, in 2009, it was revealed that the design originated from an original photograph taken by freelance photographer Mannie Garcia of the Associated Press.



Notable Case Digests

The Associated Press sought compensation, leading Fairey to counter with a defence asserting that his design fell under fair use and did not devalue the original photograph. In 2011, a private settlement was reached between the Associated Press and Fairey. The terms of the settlement included a sharing of profits derived from the art work.

A&M Records, Inc. v. Napster, Inc. (239 F.3d 1004)

Shawn Fanning, a teenage tech genius, created the Napster software in 1999, while the internet was still in its early stages. It's a peer-to-peer file-sharing tool that lets you freely share and download music. Needless to say, Napster piqued the interest of the music industry. Lars Ulrich, the drummer for Metallica, sued the software creator in 2000, alleging copyright infringement, unlawful use of a digital audio interface device, and racketeering. This is considered to be the first time a well-known musician has directly sued a peer-to-peer file-sharing software provider. This triggered a domino effect, with big record labels such as A&M and others suing Napster. The plaintiffs accused the software company of vicarious copyright infringement and were eventually convicted in 2002. To the disappointment of the public, Napster was forced to close that year, apologized publicly, and paid up to \$26 million in damages.





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NEWSLETTER
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Intellectual Property Law Newsletter

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As the landscape of Intellectual Property Law continues to evolve, our newsletter serves as your go-to resource for the latest developments and insights. We aim to empower legal professionals, policymakers, and IP enthusiasts with the information they need to navigate the complexities of IP law.

Thank You for Reading!

For feedback or contributions, please reach out to us at cdipr@icchr.in. We value your input and look forward to enhancing our future editions.

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