



CENTRIiK'S NEWSLETTER

BREXIT AND ITS IMPACT ON INTELLECTUAL PROPERTY

IP rights (IPR) only apply in the territories where the IP is registered or legally recognized. If the territory changes, then so too does the IPR. In recent years, attempts have been made to harmonize IP frameworks across the EU to give companies predictable and efficient protection for their innovation throughout the economic area. For example, the EU Trade Mark (EU TM) and the Registered Community Design (RCD) are IP protections that apply across the whole EU territory via a single application, thereby reducing cost and administration. The implication of Brexit, for companies trading in the UK and relying on EU-wide IP, is what happens when the UK falls outside the EU territory? To put it another way, in IP terms, Brexit means the earth (or part of it) will effectively move. Thankfully, the UK and EU negotiation teams are Pre-empting ahead of this and aim to ensure that companies will retain equivalent protection in the UK post-Brexit. According to the draft Withdrawal Agreement, the negotiating parties have agreed that owners of EU TMs and RCDs, granted before the end of the transition period in 2020, will automatically get an equivalent right in the UK. However, it's not so straightforward. For example, issues such as how the UK re-registration procedure will work in practice, and who will pay UK fees, are not yet agreed. Furthermore, there are several unregistered forms of IP where things are potentially even less predictable. Unregistered rights refer to things like copyright, trade secrets, and unregistered designs, the protection of which depends very much on certain legal frameworks and institutions in each member state. The intention, post Brexit, is that the UK will replicate EU directives, but due to legal and institutional complexity, it may not be possible to achieve harmony in the presence of a border.

NISSAN FILES NEW TRADEMARK APPLICATION

Nissan, the Japanese automobile manufacturer, has filed a new logo of its company name. The logo has been filed in multiple countries which include UK, Peru, Uruguay, Chile and Argentina. The new logo has been filed under various classes which primarily includes automobiles advertising and business management, insurance, financial affairs, repair or maintenance of land vehicles. Besides the new logo, the Japanese car maker has also applied for a new logo of the alphabet Z for its new sports car series.

GOAN COCONUT VINEGAR LOSES GI BATTLE

The Geographical Indication (GI) Registry, Chennai, refused to grant the GI tag to Coconut Vinegar as the indication is a newly coined term and therefore does not qualify to obtain the tag. Upon receipt of the application in May, 2019 the Registrar of GI proposed to convene a consultative group meeting consisting of experts to verify the contents of the application. The meeting was held and the expert committee heard the applicant and perused the documentary evidences and after deliberations found that the application does not qualify as a GI as the indication consists of generic terminology and therefore suggested refusal of the application. The application was filed by The Department of Science & Technology (DST), Government of Goa. The areas where the Department of Promotion of Industry and International Trade (DPIIT) has sought specific suggestions by stake holders relate to rules on working of patents, pre - grant opposition provisions and the scope of patent ability in general. Most of these areas are considered as hurdles to secure IP - linked market exclusivity for innovation - led companies.

GENERAL IP UPDATES

In view of the public notice issued by the Controller General of Patents, Designs and Trade Marks in India dated 16th March, 2020 have been canceled till 15th April, 2020 due to 21 days of Lockdown. The Indian Trademark Registry has provided extension of time for submission of any documents relating to all trade mark matter. The applicant is at liberty to file request for extension of time (now or after the situation becomes normal) and such extensions will be **taken into consideration by the Registrar. Also, In the wake of the wide spread pandemic COVID19, Bangladesh IP office is closed from 25th March, 2020 to 6th April, 2020.**

BAJAJ CITES WELL-KNOWN MARK STATUS IN DEFENDING TRADEMARK

Bajaj Electricals, part of the Bajaj conglomerates of businesses and industries, filed an application at the Bombay High Court for an interim injunction against Gourav Bajaj ('Defendant'), an individual who operates two retail electrical appliance stores at Abohar, Punjab. Gourav Bajaj was operating his stores under the tradenames 'Apna Bajaj Store' & 'Bajaj Excellent'. Bajaj further contended that even the defense of personal name use is of no consequence as the very adoption and use of the impugned mark by the Defendant is dishonest as the expression "Powered By : BAJAJ " was used upon the impugned label, suggesting that they are sponsored and/ or endorsed by Bajaj. Despite several notices, no one appeared on behalf of the Defendant. Based on the submissions and evidence provided by Bajaj, the Court passed an interim injunction against the Defendant from using the trademarks 'Apna Bajaj Store' & 'Bajaj Excellent' and the impugned domain www.apnabajajstore.com.

Citation: Bajaj Electricals Limited vs. Gourav Bajaj & Anr (Interim Application no. 1 of 2020)

CORONA VERY POPULAR WITH THE USPTO

With the COVID-19 pandemic on the rise, it is not surprising that individuals or companies are filing new trademark applications for the term. Several applications containing the term "Coronavirus", "Covid19", "I Survived Coronavirus 2020", as well as "I Beat The Coronavirus" have been filed with the USPTO in the last one month. The applications have been filed under various classes including apparel, entertainment services, as well as pre-recorded audio cassettes featuring music and record albums.

SOAP BRANDS BATTLE IN THE MIDST OF CORONA VIRUS : DETTOL AGREES TO TAKE DOWN AD AFTER HUL APPROACHES BOMBAY HC

Even as health advisories issued across the world call for the use of any soap to fight the war against the novel Coronavirus, the makers of Lifebuoy and Dettol went to battle with each other before the Bombay High Court. After Hindustan Unilever Limited (HUL) approached the High Court against Reckitt Benckiser for an advertisement allegedly disparaging the former's brand of soap, the latter company has agreed

to suspend the ad from March 22 to April 21. HUL, the makers of Lifebuoy had filed a plea before the High Court contending that the makers of Dettol were maliciously publishing advertisements against its product, as also infringing its trademark rights. HUL states that in public interest, It had published ads across various media trying to promote the washing of hands to fight the spread of COVID -19. "With the outbreak of the Corona Virus, the Plaintiff has therefore stepped up its advertisements with a view to once again create an awareness and to promote the washing of hands. The Plaintiff is therefore also advertising its product Lifebuoy soap whereby it is conveying the message to consumers at large that it is the effective germ removal product. In one such advertisement, HUL had depicted a nill child being examined by a doctor at the, and the doctor advising the child's mother on the benefits of washing hands with Lifebuoy. The plaint states that Dettol then came out with a similar ad that casts Lifebuoy soap in bad light. The displayed soap is identical and / or deceptively similar to the registered trademark and design of the Plaintiff's soap "Lifebuoy", and the same is unambiguously understood and registered in the minds of a viewer by a simple glance at the advertisement. The malice of the Defendant becomes evident and obvious by the fact the Defendant in its advertisement purports to show a soap (having shape ,configuration and colour as that of the plaintiff's read soap bearing the registered mark "Lifebuoy") which does not remove any germs and is an ineffective, useless and unreliable product." It is also claimed that the Dettol ad in question is a blatant copy of the advertisement earlier published by Lifebuoy. Thus, HUL prayed that Reckitt be restrained by a perpetual injunction from broadcasting the ad in question. An injunction against the disparagement or denigration of the Lifebuoy soap products was also sought. When the matter came up before Justice K R Shriramon March 20, Reckitt had agreed to suspend the ad from 12PM on 22nd March to 5 PM on 21st April.

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