



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.

IPRS TAKE ON YASH RAJ FILMS OVER MISAPPROPRIATED ROYALTIES

The Indian Performing Rights Society (IPRS), India's only copyright society with statutory sanction to collect royalties on behalf of authors, composers and producers of music, is going after Yash Raj Films (YRF) for misappropriating royalties of its members.

Last November, an FIR was filed against YRF in Mumbai under Sections 409 and Section 34 of the Indian Penal Code, as well as Section 63 of the Copyright Act, alleging that YRF has committed a criminal breach of trust (CBT) and violated the Copyright Act by appropriating Rs. 100 crores of royalties that belong to IPRS' members. According to reports, the FIR accuses YRF of using their superior bargaining power to force artists into contracts that prevented them from collecting royalties which belonged to them. However, before the Economic Offences Wing of the Mumbai police could look into YRF's books, YRF successfully obtained a stay on the investigations from the Bombay HC

INDIA SET TO REVIEW INTELLECTUAL PROPERTY LAWS AHEAD OF DONALD TRUMP'S VISIT

Even as India and the United States are working overtime to make the forthcoming visit of the US President Donald Trump to India a grand success, the Union Ministry of Commerce and Industry has initiated a discussion on a topic that is of tremendous interest to the US lobby groups - a review of India's intellectual property (IP) laws.

The purpose of the discussion is to suggest ways to make Indian IP laws, the laws that govern patents, copyrights and design rights etc, contemporary by drawing up a list of needed amendments.

The areas where the Department of Promotion of Industry and International Trade (DPIIT) has sought specific suggestions by stakeholders relate to rules on working of patents, pre-grant opposition provisions and the scope of patentability in general. Most of these areas are considered as hurdles to secure IP-linked market exclusivity for innovation-led companies.

FRENCH CLOTHING BRAND 'LACOSTE' ENFORCES RIGHTS

Lacoste S.A., the French clothing major, had filed an application for a permanent injunction in the Delhi District Court against Suresh Kumar Sharma. Lacoste contends that Suresh Kumar Sharma was selling shirts bearing the “Lacoste” mark and thus infringing its trademark and passing off. The Court observed that Suresh Kumar Sharma had no right to use the “Lacoste” mark and further held that his actions led to undue enrichment and created confusion amongst the general public. Thus, the court granted permanent injunction restraining Suresh Kumar Sharma from using the “Lacoste” mark.

CLIMATE CHANGE ACTIVIST GRETA THUNBERG CLAIMS TRADEMARK FOR HER NAME AND MOVEMENT

Greta Thunberg, the 17 year old Swedish climate change activist, who had gained popularity after her speech (in which she exclaimed “how dare you”) at the 2019 UN Climate Action Summit, seeks to protect her name and her movement “#FridaysForFuture”. Through a post on Instagram, Greta claimed her name and the #FridaysForFuture movement were constantly being used for commercial purposes without any consent whatsoever. She finds trademark registration necessary, after realising that products were being sold and people were collecting money in her and the movement’s name. She also intends to get a trademark registration for “Skolstrejk för

klimateet” (School Strike for Climate), the phrase written on the sign that jump-started her activism.

BAREILLY TERRACOTTA FILED FOR GEOGRAPHICAL INDICATION

The Bareilly Terracotta, originated in India, is known for the artistic and intrinsic work of the artisans. Bareilly Terracotta is a unique handcrafted product and has been providing a livelihood to thousands of artisans in Uttar Pradesh. Like pottery, terracotta is made in several parts of India where craftspeople use local clay available in river beds to make items such as articles of daily use, utilities, decoratives, lamps, candle stands, figures of deities, animals, toys, etc. The Uttar Pradesh Export Promotion Council, Lucknow and the AL Madar Social Welfare and Educational Society of Uttar Pradesh, have filed an application for registration of the GI for ‘Bareilly Terracotta’ under the Handicrafts Category. The Application has now entered the Pre-Examination Stage.