

MAXIS COMMUNICATIONS INFUSE AIRCEL
Ref: The Economic Times, Monday,
02.04.2018



Aircel, the corporate which is amidst the proceedings for Insolvency was recently infused with around 95 crores from its parent company Maxis Communication. This money has been transferred for payment of salaries to employees and handles the operational expenses of the Company for the period till the Insolvency Professional takes over. The company whose growth had been thwarted by the launch of Jio has within a span of two years dropped from profit of 120 crores to loss of 120 crores. All the promoters, management as well as the NCLT are making an attempt to revive the company. It shall be a worthy precedent as Aircel is the first company which approached NCLT under IBC for its own insolvency and revival before any of its lenders approached the courts.

#METOO TO #PAYMETOO
Ref: The Times of India, Tuesday,
03.04.2018



A movement which was induced by the Metoo internet campaign against sexual harassment towards males has the PayMeToo campaign the next in line against disparate gender pay. The employees in United Kingdom state that there is almost 14% gender pay difference between

male and females even in public organizations which is blatantly against the principles of equality. The employees have protested for transparency and publication of this information on their portals. Also, the private companies have been giving a deadline to report their gender pay details publically.

FAKE NEWS LAW APPROVED
Ref: The Economic Times, Tuesday,
03.04.2018



Malaysia, whilst setting precedent approved a law on "Fake News" recently. The law which has made this a criminal offence would make the offender liable for imprisonment upto six years depending upon the gravity of the offence. The offence would also attract penalty and/or imprisonment. The Malaysian government aims at maintaining balance between freedom of speech and offence of publishing and promoting fake news. Fake news would cover all the news, information, data and reports which are fallacious completely or even partly.

DATA PROTECTION LAWS IN INDIA
Ref: The Economic Times, Tuesday,
03.04.2018



Whether the present Informational Technology Act has wide ambit to take action against corporates, social media companies or mobile application providers or we need stringent laws to curb misuse of unauthorized information/data? The data protection law of India is at extremely nascent stages and with just four provisions namely Section 43, 43A, 66 and 72 of the Act it is not covering all the aspects. Further, with the recent issue between Facebook and Cambridge India could

only send notices to the companies demanding details of the data of Indian users. However, no action has been initiated against them till date. With the advent of digital India expansively we need a comprehensive data protection law to protect the information and data of people. Also, the tribunals and agencies need to be trained to tackle the cybercrimes which are rapidly rising.

CDS CO SEIZES OLIVE PRODUCTS

Ref: Mint, Wednesday, 04.04.2018



Olive healthcare Limited premises were raided by the Drug regulators recently for various violations. The firm was manufacturing enclomiphine, a drug which has not been approved in India nor abroad till now. This medicine is for emergency birth control and for other ailments. During the raid, the company was also found to be procuring unapproved active pharmaceutical ingredients (APIs) illegally. The production was in blatant violation of law as the application was rejected by CDSCO and the products were directed to be recalled immediately.

ITC JUICE WAR

Ref: The Economic Times, Friday, 06.04.2018



"Indian juices to be Concentrate free" is the open invitation by ITC to its competitors Pepsi and Dabur. ITC is claiming that its juices B Natural are concentrate free and thus is posing a threat to both the players. The High Court at Mumbai on the action initiated by Pepsi has directed ITC to abstain

from its campaign and suspend its advertisements till the matter is sub judice. However, it will be interesting to witness the importance of advertising campaign which is directly related to the marketing of the product in the FMCG sector.

TB DIAGNOSIS

Ref: The Times of India, Saturday, 07.04.2018



Recently, Scientists have found a Blood test which can predict the onset of Tuberculosis upto two years prior. The research shall be incremental for immediate treatment wherein the patient can be administered appropriate drugs for enhancing the immunity and can be then cured easily as well.

ECHO TRADEMARK ISSUE

Ref: The Times of India, Saturday, 07.04.2018



Echo a part of the series of Amazon product alongwith Prime and Prime Music are facing objections for registration of its trademark in India. Along with being generic the mark has been registered by various domestic players which disentitle Amazon to have its mark registered for exclusive rights in its products. Other Multinational companies face this issue rampantly, as after their product becomes globally well known the territorial trademark registrations are still to be obtained and with evidence of new entry the same is a formidable task.

COPYRIGHT ISSUE - MARATHI FILM "NUDE"

Ref: The Times of India, Sunday, 08.04.2018/19.04.2018



The release of the Marathi film "Nude" which was approved by the CBFC has been stalled by a restraint order passed by the Hon'ble Delhi High Court in a legal suit wherein allegations of infringement of copyright have been levelled against the Directors. A script writer Manisha Kulshreshtha had alleged that the movie is copy of her story "Kalinin". However, vide order dated April 19, 2018 the Delhi High Court cleared the same for release.

ERICSSON IPR

Ref: The Economic Times, Tuesday, 10.04.2018



Patent War - Fight !!!

Ericsson states that it is ready to initiate and fight out the legal battle to protect its Intellectual property rights, in case the negotiation and mutual agreements fail. After a series of cross cases which commenced in 2011, in January, 2018 the company entered into a global patent license which was taken by Micromax from Ericsson for its various patents and supplemental IPR. This is a double edged sword as it reaffirms the patent rights of Ericsson and also elates the position of Micromax as a global player.

DUTA TO ACT AGAINST HARASSMENT

Ref: The Times of India, Thursday, 19.04.2018



Delhi University Teacher's Association has represented before the Vice Chancellor to initiate strict action against the accusations of sexual harassment. The instances at Bharati College, Daulat Ram College and Chemistry Department is tarnishing the repute of the University as a whole and is making then women vulnerable. Thus, strictures should be passed for compliance of mandates regarding sexual harassment in letter and spirit.

NUZIVEEDU SEEDS LTD. AND ORS. V MONSANTO TECHNOLOGY LLC AND ORS.

Ref: 2018 (74) PTC 12 [DeI] [DB], 11.04.2018



In the long running litigation between Monsanto and Nuziveedu, the Division Bench of Delhi High Court on April 11, 2018, ruled that, the subject patent falls under the provisions of **Section 3(j) of the Patent Act** and held that the claims of the patent are unpatentable. **Monsanto Technology LLC**, an American multinational agrochemical & biotechnology corporation had licensed its patent **IN214436** titled '**Methods for transforming plants to express bacillus thuringiensis deltaendotoxins**' relating to (Bollgard & Bollgard II) **BT cotton seed technology** to different Indian companies including **Nuziveedu Seeds**. The Indian companies utilized said patented technology to produce cotton seeds that are resistant to **boll-worm** attacks. Monsanto had claimed infringement of Claim 25, 26 & 27, related to a nucleic acid sequence i.e. A selected genetic sequence from **Bacillus thuringiensis (Bt)** which when

modified (synthesized by identifying & copying **Cry2Ab gene** from bacterial DNA) and inserted into a plant cell would produce a toxin that would repel pests like the boll worm. The question before the court was whether this patent was valid in light of the statutory bar, in **Section 3(j) of the Patents Act**, against the patenting of plants and essentially biological material. The court concluded that, the transgenic plants with the integrated Bt. Trait, produced by hybridization (that qualifies as an "essentially biological process") are excluded from patentability within the purview of section 3(j), and patent rights cannot be asserted over the gene sequence that has thus been integrated into the generations of transgenic plants. The court gave a time period of three months to Monsanto to seek protection for its invention under "**The Protection of Plant Variety and Farmers Right Act, 2001**". Also, Monsanto's Indian arm is allowed to collect Rs39 per packets a trait value and approach a government agency to determine a benefit-sharing mechanism. Monsanto has appealed before the Supreme Court and challenged the decision of Division Bench.

HILTON V/S COMMISSIONER OF INCOME TAX

Ref: <http://www.taxscan.in/income-tax-deduction-allowable-expenses-incurred-acquiring-trade-mark-delhi-hc/21729/>- INCOME TAX DEDUCTION ALLOWABLE TO EXPENSES INCURRED FOR ACQUIRING TRADE MARK: DELHI HC – Retrieved on 28.04.2018



Recently, the Delhi High Court in the case of M/s. Hilton Roulunds Ltd. vs. Commissioner of Income Tax, has held that the expenditure incurred by an assessee for acquisition of a Trade Mark was revenue expenditure and was therefore deductible under Section 37(1) of the Income Tax Act, 1961. While deciding the case in favour of the assessee, it was specifically held that the fundamental test to determine as to whether a particular mark has been licensed or assigned is to see if the licensor/assignor has retained any rights in the mark. If rights

are retained with the owner, usually it is a license and if no rights are retained by the owner, then it would usually be an assignment. A license is, therefore, nothing but a permissive use of the mark, which permission, is revocable. A 'right to use' is a limited permission as a licensee and not an assignment, except in certain circumstances.

BOOKING PARKING SLOT

Ref: The Times of India, Monday, 30.04.2018



New Delhi Municipal Council (NDMC) under the aegis of Smart City will soon have features and mobile application wherein the user can pre-book its parking slot at the areas demarcated for the same. The smart roads would have sensor based parking systems and people can use NDMC 311 Mobile application at any desired location and pay through e-wallet system. Along with this facility, the smart roads, shall also have CCTV camera, Wi-Fi access through smart poles, etc.

ORACLE V/S GOOGLE

Ref: <https://spicyip.com/2018/04/oracle-v-google-us-court-of-appeals-rules-against-googles-fair-use-of-oracles-java-apis.html>- ORACLE V. GOOGLE-US COURT OF APPEALS RULES AGAINST GOOGLE'S 'FAIR USE' OF ORACLE'S JAVA API'S- Retrieved on 01.05.2018



Oracle suing Google for the infringement of its copyright in the Application Programming Interfaces API Code has led to the verdict

wherein Google is to pay USD 9 Billion to USA. This has disconcerted the entire software industry as the Court while adjudicating this matter upheld that to substantiate the contention of fair use for use of the software, mere functionality shall not be considered as transformation. Further, the code was verbatim copies by Google on basis of which it earned huge revenues which in fact caused immense loss to Oracle. This precedent will have a major impact on the software industry.

NIKOLA V/S TESLA

Ref:

<https://economictimes.indiatimes.com/magazines/panache/not-a-petty-thief-tesla-sued-by-nikola-motor-for-2-bn-over-alleged-patent-infringement/articleshow/63996219.cms> - NOT A PETTY THIEF: TESLA SUED BY NIKOLA MOTOR FOR \$ 2 BN OVER ALLEGED PATENT INFRINGEMENT- Retrieved on 02.05.2018.



Nikola motors recently while safeguarding its Intellectual property rights has sued Tesla Inc. for \$ 2 billion for copying the design of Nikola Hydrogen Trucks. Nikola had innovated and created the design in 2016 and despite the cease and desist letter sent to Tesla in November 2017, the company intended to launch its Semi Trucks. Nikola claimed that this has led to confusion in the market and substantiated its claim with the fact that it was issued six design patents by the U.S. Patent and Trademark Office between February and April 2018 for its wrap windshield, mid-entry door, fuselage, fender, side cladding and the overall design of the Nikola One. The investment in the research and development by a company needs to be balanced with the appropriate IP protection and thereafter its enforcement, lest the company deprecates its growth and innovation.

COMMERCIAL COURTS LAW AMENDED
Ref: www.livelaw.in, 03.05.2018



Within a period of three years of the passing of this statute, the same has been recently proposed to be amended. Increase of Foreign Direct Investment (FDI) and overseas commercial transactions have further contributed to a significant increase of commercial disputes. With a view to accelerate resolution of commercial disputes, this act was enacted. The amendment in the law seeks the following objectives:- (a) Reducing the pecuniary jurisdiction of dispute from 1 crore to Rs. 3 Lacs; (b) Establishment of commercial courts at various district levels; (c) Introduction of pre-Institution Mediation processes where there is no urgency.



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