

**ULTRATECH CEMENT V/S EVEREST**  
**Ref: Mint, Tuesday, 05.06.2018**



Everest Industries was charged for copyright infringement by Ultra Tech Cement Limited as they had launched deceptively similar products. Everest had launched "UltraTruf" and "A One Ultratruf" which have been restrained being a false representation for misleading the public at large. The mark, style, font, colour combination were prima facie similar to the well - known brand of Ultratech Cement and thus the court upheld the same. This success comes with a responsibility of being vigilant to the core so as to initiate action at early stages and cease activities of the infringing party.

**METRO V/S METRONAUT**  
**Ref: The Economics Times, Friday, 08.06.2018**



The well-known footwear brand Metro Shoes has recently filed a trademark infringement and passing off case against Flipkart pertaining to its brand "METRO". The company has assailed them to court as they were promoting and selling apparels and recently shoes under the brand "METRONAUT" which is deceptively similar to their brand. The role of the online retailers who are being used as a platform requires detailed adjudication as they have a vested financial interest and what is their responsibility to ensure that the products are genuine and not fake/infringed. Probably, this litigation might delve upon this pertinent issue which final adjudication.

**ARE CORPORATES COMPLIANT OF IBC?**  
**Ref: The Times of India, Tuesday, 12.06.2018**



The recent statute Insolvency and Bankruptcy Code, 2016 and Board Insolvency & Bankruptcy Board of India (IBBI) is the regulator for insolvency companies and its affairs. The entire stratosphere of the companies and their liquidity has gained momentum in the process of recovery with this act. Being a special act, special board the same has gone outside the ambit of the Courts and other civil and corporate litigation thus gaining impetus for recovery. In a huge number of cases, companies have recovered their dues at the first instance of notice only and for others also recovery processes are smooth. However, like any other law there are certain concerns which shall be addressed in due course of time. Thus, on the whole this statute has improvised the recovery and resolution process of corporate debts.

**AI & IP**  
**Ref: The Economic Times, Friday, 15.06.2018**



In the dynamic era of Artificial Intelligence, the government in order to protect the exclusivity is planning to modulate and amend the Intellectual property laws for wider protection. It is recommended for encouraging the research and innovation in this field. The use of AI includes various algorithms, data and hence a robust protection is mandatory for the optimal exclusivity of the innovator. Presently, the Patent regime in India is strict as well as

narrow and thus proposals for its amendments are being discussed at large by all stakeholders. These developments are quintessential in the realm of innovation and technology advancement.

**INDIA FINDS PLANNED PATENT RULES INCOHERENT**

**Ref: The Times of India, Saturday, 16.06.2018**



World Property Organisation (WIPO) in an attempt to streamline and harmonise the Patent systems had recommended that the Patent functions be also decentralized across all PCT Member countries. However, the same was vehemently opposed by various developing nations including India. The Patent right being an exclusive proprietary right having territorial limitation is required to be examined as per the individual laws applicable of each member state as the Patentability criteria of each state is different and a sovereign right of a country. These aspects were duly highlighted by Mr. Rajiv Aggarwal, Joint Secretary in the Department of Industrial Policy and Promotion. This would be highly inconsistent with the applicability of the Patent rights as these are territorial for enforcement, so the prosecution is to be done only by the Patent offices of the member states and not others.

**GIRNAR V/S BIG BASKET**

**Ref: Mint, Monday, 18.06.2018 18 June 2018**



"Royal" trademark is the contentious matter between Tea maker Girnar Food and Beverages Private Limited and Big Basket. The

company has alleged infringement of the trademark by sale of products under the said brand name including Tea. Royal Cup Tea is the flagship brand of Girnar and thus has been assailed for misuse of its trademark Royal and permanent injunction as well as compensation and damages. However, the matter is pending adjudication. These cases are imperative as they shall determine the legality of a generic word even whether it is for a single product/ goods/ variety of goods/ services. The same is to be examined in the light of use of the mark and not just the registration as the common law remedy under Indian laws is wider than the infringement remedy.

**CAN IP BE ENCUMBERED FOR LOAN?**

**Ref: The Economic Times, Wednesday, 20.06.2018**

**Intellectual Property Rights as Collateral for Bank Loans**

Apex Court has recently, in a case titled as Canara Bank V/s N.G. SubharayaSetty, and has adjudicated that a trademark cannot be assigned to a Bank by a borrower who has defaulted on the loan. The trademark EENADU for the product of Incense sticks being Agarbattis was taken as a security for the financial assistance by the borrower and as per the relevant provisions of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), trademark falls within the ambit of an intangible asset. A conjoint reading of the SARFAESI ACT, Banking Regulation Act and UNCITRAL rules clearly state that a trademark or any other intellectual property right is an intangible asset of a company/entity and thus can be evaluated and also mortgaged or encumbered for loan purposes. However, the Supreme Court stated that in case of a default the Bank cannot use the trademark and sell the products as the same is outside the realm of its regulated business. Further, it states that the assignment was violating the provisions of Banking Regulation Act. This judgment is contrary to the law and principles of UNCITRAL. This judgment requires to be reviewed in the larger perspective of innovation, patents, intellectual creativity and value attached to the same so as to opine differently.

**KHADI LEGAL WOES**

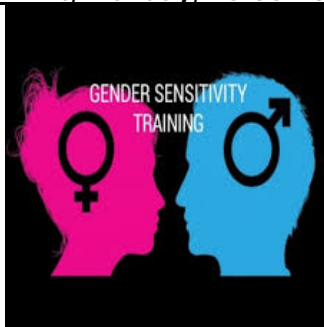
**Ref: The Economic Times, Friday, 22.06.2018**



Khadi and Village Industries Commission (KVIC), a government undertaking promoting, marketing and selling the Khadi products across the globe is widening its ambit to protect the Khadi trademark. The commission has broadening its fight to protect the Khadi trademark and issued notices to almost 200 entities to cease using the words/marks/terms like handlooms, handspun and 'woven in handlooms' without its prior permission. KVIC is claiming royalty and charges for using the words without explicit permission. This has initiated a plethora of litigation as on one hand, these words are per se generic being used by the garment industry across the globe and on the other hand, the word KHADI is claimed to the exclusive proprietary right of KVIC. The supplemental regulations clearly states that "any producer or seller of Khadi will have to obtain (it) from KVIC, many private organizations dealing in spurious khadi started using the words hand-woven, handspun, woven in handloom to (fool) customers that the fabric being sold by them is khadi".

**GENDER SENSITIVITY AWARENESS**

**Ref: Mint, Monday, 25.06.2018**



State of Haryana, which was being highlighted as the state with the lowest sex ratio of females to males has undertaken various projects and programmes to ban female infanticide, educate girls, families and in their endeavor to enhance awareness. As per the last census and reports, it is around 830 for every 1000 males, which is much lower than the average in India being 940. The government had initiated programmes in more than 314 government schools to augment the issue and understanding of gender sensitivity, gender equality, and respect for both males and females in a span of almost 3 years. Almost 14000 children were selected for follow up surveys to assess if there is any improvement. The results were positive, but it requires consistent follow up, sensitization programmes at all levels to improvise the conditions in the State.

**POLIO MEDICATION FOR CANCER TREATMENT**

**Ref: The Times of India, Wednesday, 27.06.2018**



Cancer, the disease which dreads every person across the globe even after phenomenal clinical investigations for its treatment has been cured by the Polio Virus. In a recent scientific research, it has come to fore that the patients who were administered the genetically modified polio virus had better survival rate. This is so far a one-time treatment, which is directly injected into the brain through a thin tube to attack the tumors therein. This research has yielded positive results and it should be a permanent cure for the ailment of this life threatening disease.

### **MEDICAL DEVICE REGULATIONS**

**Ref: The Times of India, Thursday, 28.06.2018**



In an endeavor to regulate the sector of medical devices, products such as implants, MRI and CT Scan equipment, X - Ray machines, etc., have been proposed to be incorporated under the provisions of the Drug Statute. The Central Drug Standard Control Organisation (CDSCO), has suggested addition of new categories in medical device category along with the current 23 products. The medical devices are imported, sold and purchased in India without any regulatory check which is vulnerable to the health of the patients on whom they are administered.

This move though beneficial for the public, but the execution and enforcement which are a major concern shall still remain.

### **APPLE & SAMSUNG**

**Ref: The Economic Times, Friday, 29.06.2018**



Recently, Apple Inc. has settled the seven years long patent litigation with Samsung Electronics Co. Apple had alleged gross and blatant patent violation by Samsung in the design of iPhone. In their history of dispute, Apple was earlier awarded more USD \$ 900 million as compensation for patent infringement. This case has again upheld the

patent assets of Apple and the importance of the same.

### **FACEBOOK PENALISED**

**Ref: The Economic Times, Friday, 29.06.2018**



Facebook assailed the verdict against its Oculus unit whereby a fine of USD \$ 500 million was awarded. The product being a virtual reality headset was alleged to have been taken from the other company infringing the intellectual property rights inherent in the same. Zenimax had sued Facebook in 2014 for the innovation in the software and hardware of the product which was revealed by their ex-employees. This case has reaffirmed the importance of Confidentiality and Non-disclosure undertaking by all employees to protect the interest of the company at large.

### **SIMILARITY OR PIRACY**

**Ref: The Times of India, Saturday, 30.06.2018**



Fashion designers innovate and invest huge amount of resources to establish their ground in the creative world. Thus, importance of copyright is quintessential in this specialized field. Recently, a designer Vaishali Shadangle has accused Mr. Sanjay Garg of Raw Mango of copying Design of a sari showcased by this Designer in 2012. Thus, in order to curb piracy and plagiarism it is essential to protect the

novelty in ones' design. Whether this matter reaches the Court for adjudication or not would be a matter of time and precedent though.

### INDIA RANKING ON GII

Ref: <https://economictimes.indiatimes.com>  
 GLOBAL INNOVATION INDEX RANKS INDIA  
 THE 57<sup>TH</sup> MOST INNOVATIVE NATION-  
 RETRIEVED ON 11.7.2018



The Global Innovation Index, commonly known as GII is an annual ranking of countries by their capacity for, and success in, innovation. It is published by Cornell University, INSEAD, and the World Intellectual Property Organization, in partnership with other organisations and institutions. It ranks 126 economies based on 80 indicators. India which was ranked at the 81<sup>st</sup> position in 2018 and 60<sup>th</sup> position in 2017, has improved its position to 57<sup>th</sup> this year. Although ranked at 57, India is a top performer in the lower middle income group, where it is ranked at fifth position. It is the most innovative country in its region of central and southern Asia. In the indicators that capture the quality of innovation inputs and outputs, India is ranked second after China in the lower and upper middle income group combined.



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CONSULTANTS**  
 Corp Legal & Intellectual Property Rights Firm

W - 19, L.G.F, GREATER KAILASH II,  
 NEW DELHI – 110048

Telephone No:  
**Delhi-011 - 49122916, 29213024**  
**Chandigarh-0172-2544552**  
**Email: [info@knowledgentia.com](mailto:info@knowledgentia.com)**  
**Website: [www.knowledgentia.com](http://www.knowledgentia.com)**

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