

IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL PROPERTY MATTERS

**SUN PHARMA SETTLES WITH BIOFRONTERA**

Ref: [expresspharma.in](http://expresspharma.in), Wednesday, 01.12.2021



Sun Pharmaceuticals arm popularly known as DUSA Pharmaceuticals Inc. has finally managed to reach settlement with Biofrontera to resolve a litigation over a case involving misappropriation of trade secrets and unfair practices following which nearly Rs.170 crores will be granted to DUSA in compensation and damages. This suit was filed in the year 2018 by DUSA in US alleging misappropriation of trade secrets, tortuous interference of contract and unfair trade practices. This entire matter revolved around patent infringement of photodynamic therapy patents granted to Levulan Kerastick which is used in treatment of actinic keratoses, a rough scaly patch on the skin that develops on account of exposure to sun over a period of time.

**PEPSICO'S IPR ON POTATO VARIETY REVOKED**

Ref: [economictimes.indiatimes.com](http://economictimes.indiatimes.com), Friday 03.12.2021



The plant varieties protection authority, PPV & FR which is a statutory body set up under the Protection of Plant Varieties and Farmer's Rights Act, 2001 revoked varietal registration certificate granted to PepsiCo on potato variety FL-2027. This order was passed in case in which a petition was filed by a farm activist contending grant of

registration certificate based on misrepresentation of facts. Further, IP rights were alleged to be granted against public interest too. This certificate was dated 01.02.2016 and the order passed by the courts in this case has come down heavily on the registrar for violating rules and conducting himself in an unreasonable manner. The registrar has been further directed to develop a standardized sheet for evaluation of application for registration of plant varieties in accordance with Act along with submission of a detailed report listing out measures being taken to avoid such instances in the future. PepsiCo had used this certificate to sue farmers in Gujarat in the year 2018 and 2019. This order and judgment clearly point out anomalies, irregularities and gaps in India's IPR regime and how these shortfalls in the system are being exploited by the privileged few.

**UBER CONTRACTS UNLAWFUL - UK**

Ref: [techcrunch.com](http://techcrunch.com), Monday, 06.12.2021



The UK High Court in a landmark ruling, has held that Uber's business model is unlawful. Uber argued that acceptance of a booking constitutes a contract between passenger and the driver. Uber has maintained that its role is merely that of a booking agent providing technology services and collecting payment as agent for the drivers. The judges in this case have boldly struck down the prevailing ride-hailing business model that operates under a claim of mere agent role for booking platforms. It was clarified that such platforms cannot escape their contractual obligation in conformity with prevailing law-Private Hire Vehicles (London) Act 1998. All other ride-hailing platforms in London are now under the process of revamping their structure in the light of this ruling. Though this ruling attacks

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general conditions prevailing in riding industry but Uber who had initiated legal action has to bear maximum consequences on account of a ruling that has turned the tide against them. The App Drivers and Couriers Union has been fighting this battle since a long time where workers are often misclassified as independent contractors resulting into brutal exploitation of drivers with passenger safety at a huge risk. The outcome of this ruling indeed will be protection of basic rights of millions of workers who have till now been subjected to grave insecurities and disrespect.

### **BITCOIN TRIAL: DEFENDANT WINS DISPUTE OVER \$50BN IN BITCOIN**

Ref: [timesofindia.indiatimes.com](https://timesofindia.indiatimes.com), Tuesday, 07.12.2021



Craig Wright, who claims himself to be the inventor of “Bitcoin” has managed to win a legal dispute against family of a deceased business partner. The deceased’s relatives claimed that he was a partner and co-inventor along with Wright for the bitcoin. What occupied the central stage in this dispute was amount worth 1.1. million Bitcoin which could be owned only by the entity involved with the digital currency since its initial phase which includes Satoshi Nakamoto, the Bitcoin creator. As digital revolution continues to progress at a breakneck speed, resolving this dilemma must now be foremost concern in order to move forward in this new era where cryptocurrency will soon become a norm.

### **WIPO LAUNCHES NEW GLOBAL AWARDS PROGRAM**

Ref: [wipo.int](https://wipo.int), Wednesday, 15.12.2021



WIPO has launched a new global awards program to recognize exceptional enterprises and individuals driving a positive impact worldwide through use of intellectual property. In the first ceremony that is scheduled to be held in July 2022, five medium and small sized enterprises will be awarded with WIPO Global Awards. Through these awards, an attempt will be made to recognize SME’s that are using innovation and IP to impact the world positively. This is also expected to encourage many more SME’s to contribute towards economy through innovation. This initiative by WIPO attempts to build an inclusive IP system and at the same time encourage entrepreneurs to tap the potential in IP so as to promote job creation, business growth and economic development. Self nomination is also allowed for these awards where a panel of seven expert judges will evaluate the candidates. Criteria for evaluation includes successful commercialization of IP and its positive impact on economy, society and culture.

### **BRITISH SCHOOL RESTRAINED FROM USING BRAND**

Ref: [latestlaws.com](https://latestlaws.com), Wednesday, 15.12.2021



In a case titled The British School Society v. The British International School, the Delhi High

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Court restrained the defendant from using any trademark similar to plaintiff's mark The British School by way of an ex parte injunction. In this case plaintiff had been user of the mark since the year 1963 and the defendant adopted the mark in 2005. The court while passing the order of injunction in this case clearly observed that adoption of a similar mark by defendant will result into confusion in the minds of students and their parents and they could easily become prey to misguided beliefs as to connection between defendant and plaintiff. This is a classic case where prior user has won the battle yet once again and registration of trademark has resulted into making enforcement a much easier and hassle free process.

**DELHI HIGH COURT OBITER DICTA ON SENIOR LAWYERS**

Ref: [ndtv.com](http://ndtv.com), Wednesday, 22.12.2021



While passing an order in an intellectual property rights case, Delhi High Court appealed to the Senior Advocates to responsibly and wisely make use of court's time. This observation was made in the wake of large number of matters listed each day and only few of them being taken up on account of prolonged hours of arguments by Senior lawyers in cases. There was a specific mention about cases relating to intellectual property rights where matters are contested vociferously for many hours at a stretch. The judges clarified that once submissions have been heard and documents as well as evidence has been appreciated by the court, the counsels must relent. These remarks were made in an appeal challenging order of a single bench that restrained Hindustan Unilever Ltd. that manufactures Domex, toilet cleaning products from publishing four advertisements. The company was also directed to remove all references to Harpic on

account of deceptive similarity between both the marks.

**JAPAN - PATENTS SECRET LAW**

Ref: [Bloomberg.com](http://Bloomberg.com), Sunday, 26.12.2021



Plans are underway in Japan to introduce legislation that would keep sensitive patents secret and at the same time compensating applicants who have forgone licensing fees. The government is slated to compensate upto about 20 years' worth of licensing income. Under this law, the government will review all patent applications that have potential military use such as in development of nuclear weapons and quantum technology. Patents that pose a national security risk will not be disclosed and applicants will not be able to file patents in other countries. As per the reports, this law will become effective from 2023 onwards. In the process to ramp up its national economic security, Japan will also screen purchase of equipments by power grids, telecommunication as well as financial companies.

**DRDO PROMOTES MAKE IN INDIA**

Ref: [business-standard.com](http://business-standard.com), Tuesday, 28.12.2021



Five Indian companies will now manufacture military grade extreme cold weather clothing

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system in order to fulfill requirements for the Indian Army as well as export to other countries. This system is designed to provide thermal insulation between +15 degrees and -50 degrees Celsius. This system and technology has been made specifically keeping Indian Army in mind for sustaining their operations in glaciers and Himalayas. This system has been ergonomically designed modular technical clothing with improved thermal insulation and psychological comfort based on insulation required at various harsh climatic conditions in Himalayan Region during various levels of physical activity. It further embodies physiological concepts related to reduction in respiratory heat and water loss, unhindered range of motions and rapid absorption of sweat while providing water/wind proof features with adequate breathability and enhanced insulation as well as features required for high altitude operations.

### OCI'S - IMMOVABLE PROPERTY IN INDIA

Ref: [moneycontrol.com](https://www.moneycontrol.com), Wednesday, 29.12.2021



In a clarification issued recently, The Reserve Bank of India has conveyed that Overseas Citizens of India do not need to take any prior approval for acquisition and transfer of immovable property. OCI's and NRI's have a similar status in relation to purchase of immovable property and purchase of agricultural land, farmhouse or plantation property which they are not permitted to purchase. Acquisition of immovable property by foreign nationals is governed by Foreign Exchange Management

Rules, 2019. As per latest notification issue by government of India in the year 2021 OCI cardholders require a special permit for various activities such as missionary or journalism or visit to a place that falls under restricted or protected area as notified by Central Government.

### COVID 19 VACCINE PATENT BATTLE

Ref: [techlive.in](https://techlive.in), Thursday, 30.12.2021



On one side, the world is reeling under the stress on economy, healthcare institutions and businesses triggered by prolonged continuation of COVID-19 pandemic and finding out ways to vaccinate a billion lives against the deadly virus and on the other side a legal battle is taking shape between the government, scientists and academia over securing patent rights and ownership for covid-19 vaccines. This vaccine being one of the most historic and major biotech invention, has put tens of billions of dollars on line. Patent rights over medical inventions has always been a battleground between government, corporate and academia since with grant of patents in pharmaceutical industries comes exclusive rights to sell a drug or a vaccine for many years. Scientists, universities and government too can benefit in process in case a drug company decides to license a patent. But every time a dispute occurs, it's difficult to wriggle out from the same as there are many overlapping institutions and individuals involved who invest in the process of Research & Development which is a fruitful yet time consuming endeavour. One dispute emerges from Moderna's stance to deny a request to list government scientists from National Institute of Health as co-inventors on a patent application filed by Moderna over grant of patent rights in key component of Covid-19 vaccine. This patent

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revolves around genetic sequence incorporated into the vaccine to trigger an immune response against coronavirus. Though at present Moderna has dropped the patent application because of few technicalities but resolving patent issues is becoming more complicated as a result of ambiguous terms and conditions between various parties who are working jointly and co-inventing technology. The second dispute between the parties relates to an engineered spike protein that is well known for enabling a vaccine induce stronger immune response. Moderna has yet not obtained license from the Institute and in the absence of a license, patent infringement could cost Moderna a hefty sum of amount in damages. Apart from Moderna, even Pfizer and many other leading companies are embroiled in legal battles over IP issues relating to vaccines.



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