

IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL
PROPERTY MATTERS

KNOWLEDGENTIA AND SACC INDIA
COLLABORATION

Wednesday, 24.05.2023



Knowledgentia Consultants collaborated with SACC India for a refreshing, exclusive and a special session for all start ups. We are your one stop solution for company registrations and IPR compliances if you are a start - up who needs mentoring or hand holding. Our heartfelt gratitude to SACC India, Gurugram Centre.

IRRETRIEVABLE BREAKDOWN UNDER
ARTICLE 142 – APEX COURT

Ref: barandbench.com, Monday, 01.05.2023



The Apex Court in case titled SHILPA SAILESH V VARUN SREENIVASAN, 2023 LiveLaw (SC) 375, held that under Section 142 of the Constitution of India, the Supreme Court can

dissolve a marriage on the grounds that the same has irretrievably broken down. The parties no longer have to wait for 6-18 months for a decree of divorce by mutual consent from family courts. This ruling is significant in the sense that it allows the parties respite from time consuming and lengthy divorce proceedings in the family courts. Further, the Hindu Marriage Act has no provision for divorce on grounds of irretrievable breakdown and now the gap can be filled in cases where parties are unable to live together. Though this is not available as matter of right to parties but is on complete discretion of the Apex Court. The Court also clarified that parties cannot start filing writ petitions under Article 32 or 226 of the Constitution and seek relief in such matters.

“MONSOON HARVEST” VS “MONSOON
HARVEST FARMS”

Ref: livelaw.in, Saturday, 06.05 2023



Delhi High Court while granting interim injunction restrains Tamil Nadu based food manufacturer from using “Monsoon Harvest: mark till pendency of trademark infringement suit filed by registered prior user. The case titled PREETENDRA SINGH AULAKH V. GREEN LIGHT FOODS PVT LTD.; is grabbing attention for bench’s application of test of an imprudent buyer of average intelligence with spotty memory who could get deceived as a result of confusingly similar trademark names where food items are sold on the same counter.

IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL
PROPERTY MATTERS

**BHU FORMS TASK FORCE FOR IPR AND
TECH TRANSFER**

Ref: [hindustantimes.com](https://www.hindustantimes.com), Sunday, 14.05.2023



Vice Chancellor of Banaras Hindu University has constituted a task force for Intellectual Property Rights & Technology Transfer Cell. The main goal of this cell is to protect intellectual property rights of innovator and thereafter transfer these novel technologies/products to industry for societal benefits. The cell will be creating an ecosystem by promoting innovations, entrepreneurship and start ups along with supporting ongoing research programmes. Supporting innovators in disclosing innovations, filing patents, providing legal support, conducting workshops and training programmes, protecting rights of industry and academia through enforcement of mutual agreements, framing and reviewing modalities of technology transfer and licensing to industry partners are few functions that the cell will be concretely diverting its attention to.

**SC ISSUES DIRECTIONS FOR POSH ACT
IMPLEMENTATION**

Ref: [sconline.com](https://www.sconline.com), Sunday, 14.05.2023



The Apex Court in the case titled AURELIO FERNANDES V. STATE OF GOA, 2023 SCC Online SC 621 has issued extensive directions for implementation of POSH law. All the Governments and Union Territories are to undertake a timebound exercise to verify as to whether all the concerned Ministries, Departments, Government organizations, authorities, Public Sector Undertakings, institutions, bodies, etc. have constituted ICCs/LCs/ICs and that the composition of the said Committees are strictly in terms of the provisions of the PoSH Act. Further, they have to ensure that the relevant rules, regulations and internal policies are made readily available on the website of the concerned Authority/Organisation/Institution/Body, as the case may be. A similar exercise has also been prescribed to be undertaken by all the Statutory bodies of professionals at the Apex level and the State level (including those regulating doctors, lawyers, architects, chartered accountants, cost accountants, engineers, bankers and other professionals), by Universities, colleges, Training Centres and educational institutions and by government and private hospitals/nursing homes. Further, the National Legal Services Authority (NALSA) and the State Legal Services Authorities (SLSAs) have been directed to develop modules to conduct workshops and organize awareness programmes to sensitize authorities/managements/employers, employees and adolescent groups with the provisions of the Act as part of their Calendar. The National Judicial Academy and the State Judicial Academies have also been directed to include in their annual calendars, orientation programmes, seminars and workshops for capacity building of members of the ICCs/LCs/ICs established in the High Courts and District Courts and for drafting Standard Operating Procedures (SOPs) to conduct an inquiry under the Act and Rules. The Court has directed the Union of India and all States/UTs to file their affidavits within eight weeks for reporting compliances.

IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL
PROPERTY MATTERS

SUSTAINABLE TOURISM BOOST IN BALI

Ref: wipo.int, Tuesday, 16.05.2023



Ministry of Tourism and Creative Economy of Indonesia and Provincial Government of Bali launch a pilot project in collaboration with WIPO Regional and National Development Sector Projects' Team. The project focuses on supporting the use of IP to boost the tourism industry. A select group of women entrepreneurs in Bali handicrafts and spa sector are being trained under this project. This project is essentially focused on SME's to leverage IP to enhance their branding and marketing strategies and at the same time providing guidelines to policymakers and businesses for sustainable economic growth and scalability.

RECONSIDERING EXCLUSIONS UNDER S. 3(K) OF THE PATENTS ACT

Ref: sconline.com, Wednesday, 17.05.2023



Delhi High Court in the case titled OPENTV INCV. CONTROLLER OF PATENTS AND

DESIGNS, 2023 SCC Online Del 2771 held that since a large number of inventions in emerging technologies including by SMEs, start-ups and educational institutions could be in the field of business methods or application of computing and digital technologies, therefore, there was a need to have a re-look at the exclusions in Section 3(k) of the Act, in view of the growing innovations. Finally 161st report of the Parliamentary Committee titled "Review of the Intellectual Property Rights Regime in India" is being given consideration and hopefully we will soon have amendments considering the future emerging trends.

LRS SCHEME AND INCREASED TAX RATE FROM JULY 1

Ref: india-briefing-com, Monday, 22.05.2023

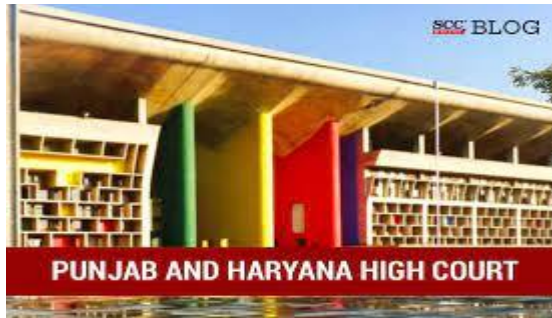


Finance Act 2023 had provisions for taxation on all outbound remittances but a clarification has recently been issued in this regard. Small transactions below or equal to INR 700,000 which are made using international debit and credit cards shall be exempted from Liberalized Remittance Scheme. LRS Scheme is not applicable to corporates, partnerships, trusts and similar entities but only to individuals. As per amended IT Act, the Indian government has increased tax on outbound remittances from 5 to 20 %. While exceptions apply to educational and medical expenses, the new tax rate will be applicable to funds sent overseas for vacations, investments, and gifts, if the amount exceeds INR 700,000 per financial year.

IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL
PROPERTY MATTERS

USE OF SINGLE WORD NOT
TRADEMARK INFRINGEMENT

Ref: timesofindia.indiatimes.com, Tuesday,
23.05.2023



In a case titled *PERNOD RICHARD INDIA PVT LTD V. UNITED SPIRIT LTD*, 2023 SCC OnLine P&H 477, the division bench comprising Justice Augustine George Masih and Justice Alok Jain while reiterating established principles of trademark jurisprudence clarified the difference between “opposition and cancellation of trademark”. The court held that similarities between single words cannot be deduced as infringement or passing off. While dismissing the appeal filed by Pernod Ricard Pvt Ltd against United Spirit Limited over infringement of its mark “Blenders Pride”, the court clearly abstained from passing an order encouraging monopolistic trade activity. Since there is no independent registration in the mark “Pride”, the appellant in the present matter was disentitled from claiming a stay qua the same. Since the requirements under Order 39 Rule 1 & 2 of CPC were not met and considering the inability of the appellant to prove any irreparable loss or balance of convenience, the court rejected granting an injunction or any other interim relief in favour of applicant in the matter.

SATYAJIT RAY, FIRST OWNER OF
COPYRIGHT IN “NAYAK” MOVIE

Ref: livelaw.in, Tuesday,23.05.2023



Delhi High Court in the case titled *RDB AND CO HUF V. HARPERCOLLINS PUBLISHERS INDIA PRIVATE LIMITED*, 2023 LiveLaw (Del) 435, held that late director Satyajit Ray is the first owner of copyright in 1966 Bengali film “Nayak” and the right to novelize its screenplay is also vested in him. Consequent to his demise, the rights in the film can be assigned by late director’s son and others on whom the right devolved or on any other person under Section 18 of the Copyright Act. The assignment of the right to novelize the screenplay of the film 'Nayak' by Sandip Ray and the Society for Preservation of Satyajit Ray Archives in favour of the defendant is, therefore, wholly in order and in accordance with the provisions of the Act.

PARAGUAY DEPOSITS ITS ACCESSION
TO BUDAPEST TREATY

Ref: intellectual-property-helpdesk.ec.europa.eu,
31.05.2023

Wednesday,
31.05.2023



**IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL
PROPERTY MATTERS**

Paraguay has deposited its accession to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. The Budapest Treaty is scheduled to enter into force in Paraguay on August 5, 2023. The main feature of the treaty is that a contracting State which allows or requires the deposit of microorganisms for the purposes of patent procedure must recognize, for such purposes, the deposit of a microorganism with any "international depositary authority", irrespective of whether such authority is on or outside the territory of the said State. Disclosure of the invention is an essential requirement for the grant of patents. Normally, an invention is disclosed by means of a written description. Where an invention involves a microorganism or the use of a microorganism, disclosure is not possible in writing but can only be affected by the deposit of a sample of the microorganism. In practice, the term "microorganism" is interpreted in a broad sense, covering biological material the deposit of which is necessary for the purposes of disclosure, in particular regarding inventions relating to the food and pharmaceutical fields.

It is in order to eliminate the need to deposit in each country in which protection is sought, that the Treaty provides that the deposit of a microorganism with any "international depositary authority" suffices for the purposes of patent procedure before the national patent offices of all of the contracting States and before any regional patent office (if such a regional office declares that it recognizes the effects of the Treaty).



**W - 19, L.G.F, GREATER KAILASH II,
NEW DELHI – 110048**
Telephone No:
Delhi - 011 - 49122916; 9910734340
Chandigarh - 0172-2544552
Email: info@knowledgegentia.com
Website: www.knowledgegentia.com
©All rights reserved.
Knowledgegentia Consultants®