

KNOWLEDGEATE® -DECEMBER 2024

IMPARTING KNOWLEDGE ON LATEST CORPORATE LEGAL AND INTELLECTUAL PROPERTY MATTERS

UN POLLUTION TREATY DISAGREEMENTS

Ref: 02.12.2024, Monday, Business Standard



Efforts to finalize a global treaty on plastic pollution faced major hurdles as over 100 countries pushed for limits on plastic production, while a few oil-producing nations insisted on focusing only on waste management. The final session of the UN Intergovernmental Negotiating Committee in Busan, South Korea, was delayed, with deep divisions on key issues. A proposal led by Panama, backed by over 100 nations, called for global production limits, while another option excluded such restrictions. Plastic production is expected to triple by 2050, with a 2023 UN report identifying over 3,200 harmful chemicals in plastics, posing serious health risks, especially to women and children. When the whole world is grappling with the challenges of global warming and climate change, countries must set aside their personal interests and prioritize collective action. The resistance of certain nations to plastic production limits undermines global efforts to curb pollution. A strong, binding treaty is essential to safeguard the environment and future generations, rather than allowing economic interests to dictate the outcome.

NRI'S TAXATION REGIME

Ref: 03.12.2024, Tuesday, Hindustan Times

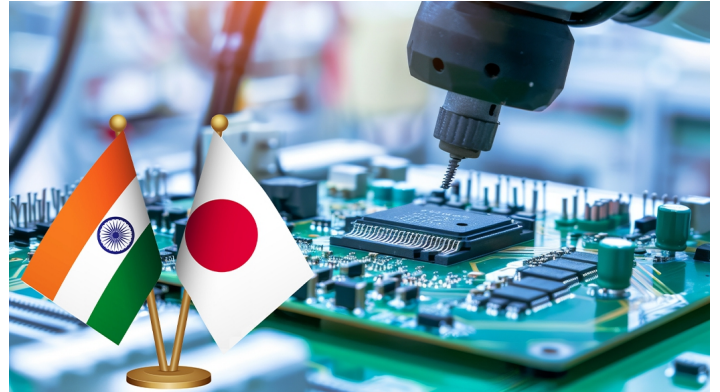


If you are a tax resident of the US and qualify as a Non-Resident Indian (NRI), your professional fees from an Indian company may be taxed in India. Under Indian tax law, such fees are categorized as "fees for technical services" and are taxed at 20% (plus surcharges and cess). India can tax your income only if you have a fixed base in India or if you stay there for over 90 days in a financial year. If you are providing services remotely from the US without visiting India, your fees should not be taxed in India under DTAA. If you follow Indian tax law, and the correct TDS is deducted, you don't need to file a tax return in India. But if you claim DTAA benefits, filing a return is mandatory. To avail of DTAA benefits, you must obtain a Tax Residency Certificate from US authorities and submit Form 10F. Complex

regulations and cumbersome paperwork often discourage individuals from taking advantage of legitimate benefits like DTAA. A streamlined approach with easy access to necessary certifications and filings would foster greater trust and participation in the tax system.

JAPANESE FIRMS EAGER TO VENTURE IN INDIA

Ref: 04.12.2024, Wednesday, Hindustan Times



Japanese companies are highly interested in setting up semiconductor manufacturing units in India and have the expertise to collaborate with local firms, according to Deloitte. However, India needs a skilled workforce, funding, and continued government support to boost the sector. Japan, with around 100 semiconductor plants, is among the top five countries in this sector. This collaboration with Japan presents a great opportunity for India, especially at a time when many foreign investors are pulling out. Establishing semiconductor manufacturing units will not only strengthen India's economy but also prove that the country remains a strong and reliable investment destination. This partnership will reinforce India's position in the global tech supply chain and demonstrate its long-term growth potential.

INHERITANCE RIGHT

Ref: 04.12.2024, Wednesday, Hindustan Times



The succession of the maternal grandparents if passed away without a Will shall be as per Hindu Succession Act (HSA). Their self-acquired assets should be equally shared among their six children (four daughters and two sons). Since your mother has passed, her 1/6 share would be divided equally among you, your sister, and your father, provided she left no Will. Inheritance rights for women have long been a contentious issue, but with time, societal attitudes are evolving, and people are gradually adapting to new legal frameworks. The Hindu Succession Act ensures equal rights, and a strong judicial system is playing a crucial role in enforcing these provisions. While challenges remain, increased awareness and legal support are helping women rightfully claim their inheritance. Consulting a lawyer is advisable to ensure you take the right legal steps toward a fair resolution.

'6E' TRADEMARK

Ref: 04.12.2024, Wednesday, Business Standard



IndiGo has filed a lawsuit against Mahindra Electric Automobile for allegedly infringing on its trademark '6e'. Mahindra plans to use the '6e' mark for its upcoming electric vehicle, the Mahindra BE 6e. IndiGo argues that '6e' is a key part of its brand, used for both its airline services and various add-ons offered to passengers. The dispute began when Mahindra received approval to register 'BE 6e' under Class 12. IndiGo argues that any use of the '6e' mark by Mahindra, even as part of a vehicle name, would cause confusion and harm to its brand identity. Mahindra, on the other hand, maintains that 'BE 6e' is distinct enough to avoid confusion, and that the '6e' mark used by IndiGo refers only to the airline industry, not to automobiles. Mahindra is open to discussions with IndiGo to resolve the matter amicably. When two corporate giants clash over trademark rights, the dispute naturally grabs attention and sets a crucial precedent. Regardless of the outcome, this case will shape future interpretations of brand identity and cross-industry trademark conflicts. It highlights the growing need for clear distinctions in intellectual property rights, ensuring fair protection without stifling innovation.

SURROGATE ADVERTISING NOVEL GUIDELINES

Ref: 05.12.2024, Thursday, Hindustan Times



The Central Consumer Protection Authority (CCPA) is finalizing draft guidelines to address the issue of surrogate advertising, focusing on strengthening compliance, particularly in digital marketing and celebrity endorsements. The rules will require manufacturers of liquor or tobacco products to submit regular market reports to ensure that products being advertised are real and not just tools for brand promotion. The CCPA aims to strike a balance between protecting consumers and allowing brands to market legitimate products. The draft guidelines could be released by the end of this month or early next year, with the possibility of revisions based on stakeholder feedback. The government must enforce strict measures to ensure such advertisements do not mislead consumers, especially children, who are most vulnerable to their influence.

ROYALTY FOR ARTISTS FROM DIGITAL PLATFORMS

Ref: 05.12.2024, Thursday, Hindustan Times



Many independent artists miss out on royalties simply because they are unaware of their rights, leaving them vulnerable to exploitation. To safeguard their earnings, they should seek professional guidance and ensure their music is properly registered with rights management organizations. Understanding the system and tracking their performance data will help them maximize revenue and protect their interests in the long run. Along with live performances, digital platforms like Spotify and YouTube now provide significant revenue. Artists who own their music directly receive royalties from these platforms. Royalties come in two main types: sound recording royalties, paid to the record label owner, and publishing royalties, paid to songwriters and composers. These royalties are divided further into performance royalties (for live performances or broadcasts) and mechanical royalties (from song downloads or sales). Additionally, royalties are paid when artists' music is used on social media or in TV shows, movies, ads, or video games (known as sync licensing). However, many independent artists are missing out on these opportunities. To fully benefit, artists need to ensure their music data is correctly registered with rights management organizations to claim royalties from various platforms.

COPYRIGHT THEFT FOR INFLUENCERS

Ref: 09.12.2024, Monday, Hindustan Times



As technology and social media continue to grow, with new apps being launched daily, it becomes nearly impossible for a single person to keep track of all potential infringement. To protect their content effectively, creators should consider hiring a dedicated team that specializes in monitoring, reporting, and addressing copyright issues. This proactive approach can help prevent losses and ensure their rights are properly safeguarded across multiple platforms. However, legal experts suggest that creators can take stronger legal actions, like seeking an injunction to stop the infringement and asking for financial compensation. These legal routes can be time-consuming and expensive, so many creators prefer to use the platform's tools instead of pursuing formal court cases. Many feel that handling multiple cases of infringement would be overwhelming. Creators are encouraged to consider legal remedies, but for many, it's easier to simply flag infringing content rather than take it to court.

AI'S DATA RACE

Ref: 10.12.2024, Tuesday, Hindustan Times



Recently, ANI sued OpenAI, claiming it used its content to train its AI chatbot, ChatGPT, without permission. This is one of the first such cases in India, but similar issues are happening worldwide due to unclear rules on how AI uses publicly available data. AI companies argue that they use public data under fair use laws, and their models become highly efficient after training on vast amounts of text data from the internet. However, this source of information is limited, and AI firms are looking for more data to continue their progress. Researchers predict that the available data could run out by 2030, and AI companies are exploring unconventional sources to keep up. Open AI and other open source companies are even creating synthetic data, generated by AI models themselves, to feed their systems. This intense competition for data is shaping the future of AI technology, but it also raises significant concerns about copyright infringement and the ethics of using publicly available content. It is India's first AI-based copyright infringement case, filed by ANI against OpenAI. As AI continues to evolve, this legal battle will play a critical role in balancing innovation with the protection of creators' rights.

ONLINE HARASSMENT OF CELEBRITIES

Ref: 11.12.2024, Wednesday, Hindustan Times



While social media has undoubtedly brought the world closer, it has also become a breeding ground for hate and defamatory content under the guise of free speech. Celebrities, like A.R. Rahman, Salman Khan, and Akshay Kumar, are increasingly turning to the legal system to defend their reputations, highlighting the need for stronger action. Online platforms must implement stricter policies to reduce the spread of harmful content and protect individuals from malicious attacks. The rise of unchecked online hate emphasizes the urgent need for greater accountability in digital spaces. The anonymity provided by social media makes it easier for trolls to damage a celebrity's image. Defamation laws in India protect people from false statements made with the intent to harm their

reputation. These rights help prevent unwanted invasions into their personal lives and stop false portrayals of them, even if the content isn't directly harmful.

SCAMS OF DIRECT SELLING COMPANIES

Ref: 14.12.2024, Saturday, Hindustan Times



Direct selling has become a significant concern in terms of consumer protection and tax evasion, with many companies using these methods to bypass regulations. The rise of unregulated direct selling schemes often leads to deceptive practices, making it difficult for authorities to track revenue and tax compliance. The Central Consumer Protection Authority (CCPA) has sent notices to 17 direct-selling companies for allegedly violating the Consumer Protection (Direct Selling) Rules, 2021. Direct selling refers to selling products or services directly to consumers, often through independent representatives who use personal meetings, online platforms, or home visits, instead of retail stores. Some of the companies involved in the investigation include Vihaan Direct Selling (part of the QNet Group), Oriflame India, and others. While Oriflame India claims to fully comply with the rules, many of the other companies under investigation are not part of the Indian Direct-Selling Association (IDSA), which works to promote good practices in the industry. The government is also looking into complaints against direct-selling companies for breaking the rules, with plans to tighten regulations. Consumers should verify a company's legitimacy, check for clear information on their website, and be cautious of recruitment-focused schemes. It is also important to ensure the company has clear policies for returns, refunds, and resolving complaints.

EJAGRITI LAUNCHED FOR CONSUMERS

Ref: 14.12.2024, Saturday, Hindustan Times



a large section still finds the process time-consuming and inconvenient. The government's initiative to launch the "e-Jagriti" app and an updated portal is a landmark step towards making consumer grievance redressal more accessible and efficient. By simplifying complaint submissions and providing real-time updates, this move aims to empower consumers and accelerate the resolution of issues, ensuring a more user-friendly and timely process. Currently, over 500,000 complaints are filed each year, and the new platform aims to speed up the resolution process. Consumers will be able to file cases directly through the app, avoiding the need to submit physical documents to consumer courts.

PIL AGAINST AMFI

Ref: 21.12.2024, Saturday, Business Standard



A public interest litigation (PIL) has been filed in the Bombay High Court, requesting the Securities and Exchange Board of India (SEBI) to cancel the permissions given to the Association of Mutual Funds in India (AMFI) for running "misleading" ads under its investor education programs. The petitioner, a chartered accountant, claims that AMFI's advertisements wrongly suggest that mutual funds are always a good investment without offering any proper reasoning. He argued that these ads are false, misleading, and designed to create a distorted impression of mutual funds, emphasizing only the positive aspects while ignoring the risks. The Bombay High Court has appointed an Amicus Curiae to review the case due to its public interest significance and has issued notices to SEBI and AMFI. The petitioner compared AMFI's ads with those of other institutions like the Reserve Bank of India (RBI) and SEBI, which do not have a commercial agenda and are intended purely for public benefit, unlike AMFI's ads that are seen as having a commercial motive.

MEDIATION FOR COMMERCIAL DISPUTES

Ref: 26.12.2024, Thursday, Hindustan Times



The Indian judiciary is already overburdened with a massive backlog of cases and a shortage of judges, leading to prolonged legal battles. Establishing more mediation councils will be a boon for both the judiciary and the public, as it will promote quicker dispute resolution and reduce the pressure on courts. A well-regulated mediation system can ensure fair settlements, especially in commercial disputes, ultimately improving India's ease of doing business. Legal experts are calling for the establishment of a dedicated council to oversee mediation rules and procedures as part of the growing push for mediation in commercial disputes. Despite the 2015 Commercial Courts Act emphasizing mediation, and the 2023 Mediation Act proposing a Mediation Council of India (MCI) to create rules and empower mediators, the council is yet to be formed. Currently, parties receiving such relief can bypass mediation, but the proposed change aims to prioritize mediation as a dispute resolution method. The proposed Mediation Council of India would regulate the industry, ensure mediator standards, and oversee mediator education and certification, making it an essential part of improving India's ease of doing business.



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