

NEWSLETTER

Technology, Media & Telecommunication Laws
May, 2021

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ABOUT US

TMT Law Practice is a boutique law firm providing a full suite of services in the TMT sectors. Over time, the firm's practice has expanded from a niche boutique IP practice, to include practice areas such as commercial disputes resolution & arbitration, regulatory litigation & advisory, corporate/commercial advisory and transactional support, and policy and legislative drafting across industry verticals. The Firm represents a broad range of clients including Fortune 500 companies, as well as MSMEs and Start-ups.

The firm engages in the practice of the conventional domains of law, and, is also heavily invested in the niche areas of emerging technology, including space technology and policy; healthcare and ICT; data privacy and protection; and, sports laws.

The Firm stresses on developing well-rounded, solution - oriented professionals, who specialize in client - focused service delivery.



MEDIA NEWS

1. **Delhi High Court Restrains Illegal Dissemination of Salman Khan's Radhe, Directs WhatsApp to Forthwith Suspend Infringing Accounts**

On the basis of a suit filed by Zee, the Delhi High Court has ordered WhatsApp users to stop circulating Salman Khan's latest film "Radhe: Your Most Wanted Bhai". This comes after the distributor alleged that the film has been a victim of rampant piracy through social media platforms. The High Court directed WhatsApp to suspend services to numbers that are being used to sell pirated copies of the film. The court also directed the country's leading telecom operators—Airtel, Jio and Vodafone—to disclose subscriber details of the offenders, with Zee to initiate further legal action against them.

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2. **Kerala High Court Stays Release of Malayalam Film Titled 'Aquarium'**

The Bench of P.V. Kunhikrishnan, J., stayed the release of Malayalam film "Aquarium" apprehending it to be defamatory to the Roman Catholic Christians. The Bench opined that, "*this is a matter to be heard in detail.*"

The petition was filed to seek stay on the operation of the certificate granted as per the certificate No. DIL/3/1/2020-THI pending disposal of the writ petition. According to the senior counsel the script of a cinema which is to be telecasted in OTT platform based on the above certificate is highly defamatory to the Roman Catholic Christians. It was alleged that there are defamatory statements about nuns.

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3. **Indian audio platform aawaz.com launches first home-grown digital live audio platform**

India's largest spoken-word audio and podcast network aawaz.com has entered in the live audio space with the launch of #aawazLive. The real-time, live audio chat feature will be available on the

aawaz.com platform, offering professionally generated content. The company has partnered with FM stations, publishers, news & media companies to bring high quality, live and interactive audio experience to its growing listener base.

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4. **Bombay High Court permits promoters of 1996 Michael Jackson concert to withdraw Rs. 12 crore Entertainment Tax waiver**

The Bombay High Court has permitted the event management company, Wizcraft, responsible for organising the Late Michael Jackson's concert in Mumbai, 1999 to withdraw Rs. 12,33,00,000/- (Rupees Twelve Crores and Thirty-Three Lakhs Only) in the form of entertainment tax. The decision came after duty was waived by the Maharashtra government early this year.

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5. **Tamil Nadu Government seeks ban on Family Man 2**

The Tamil Nadu government requested the Centre to take immediate action either to stop or ban the release of the Manoj Bajpayee and Samantha Akkineni starrer Amazon Prime Video series *The Family Man 2*, saying it depicted the Eelam Tamils in a "highly objectionable manner." Claiming there were "condemnable, inappropriate and malicious contents" in the serial, IT Minister T. Manoj Thangaraj said the trailer released by Amazon Prime Video on social media was aimed at discrediting and distorting the historical struggle of the Eelam Tamils in Sri Lanka.

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6. **AT&T and Discovery to create new streaming giant**

US telecoms giant AT&T has agreed to combine its Warner Media business with Discovery in a deal to create a new streaming giant. The tie-up brings one of Hollywood's biggest studios and Discovery's

channels under the same ownership. Thus, the proposed merger would put together movie giant Warner Bros. Entertainment, which owns the Harry Potter and Batman franchises, with Discovery's home, cooking, nature and science shows.

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7. Instagram to Host Its First Creator Week, an Invitation-Only Series of Events

Instagram has set a three-day program dubbed Creator Week – the social-media platform's first

professional development event series designed to help creators grow their followings and make more money. The first-ever Instagram Creator Week will run June 8-10, with a series of virtual streaming sessions. Those will be accessible by invitation only, with about 5,000 creators from the U.S. expected to attend. The Facebook-owned service also plans to have global programming with Instagram Creator Week events happening virtually in France and other European markets.

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IPR NEWS

1. **WhatsApp, Telegram restrained by Delhi HC from illegally circulating TOI e-paper**

In an interim order dated 21.05.2021 the Delhi High Court has restrained social networking platforms WhatsApp and Telegram and certain other individuals from allegedly illegally circulating e-papers of Bennett, Coleman and Company Ltd (Times of India and sister publication Navbharat Times) on their respective platforms.

The bench observed that:

"The plaintiff being an exclusive owner of the copyright in the said literary work, therefore, possesses all rights to it in any material forms. defendants are illegally circulating copies of e-newspaper owned by the plaintiff which violate the rights of the plaintiff."

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2. **Delhi High Court restrains use of Red Horse mark in trademark suit by Red Bull**

The Single-Judge Bench comprising of Justice Sanjeev Narula of the Delhi High Court has passed an *ex-parte* interim order restraining Bakewell Biscuits from unauthorizedly using "Red Horse" in a Suit against infringement filed by Red Bull. The Delhi High Court further restrained Bakewell Biscuits from using the impugned mark or any other mark, device, logo, domain name or trade name which is deceptively similar to Red Bull's mark or which may cause confusion, for any type of goods including candy and confectionery items without permission or license from Red Bull.

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3. **'Khadi', 'Khadi India' not Generic Names, Rules Tribunal**

Khadi and Village Industries Commission's (KVIC) efforts to prevent "unauthorized" and "fraudulent" use of brand name "Khadi" has now found legal backing from the courts. Observing that "Khadi" was not a generic name to be used by private individuals or firms, the National Internet Exchange of India Domain Dispute Policy (INDRP) Arbitration

Tribunal in Delhi has permanently restrained any individual from using the brand name Khadi. The order came on a complaint filed by KVIC challenging a domain name www.khadi.in being run by a Delhi-based person namely Mr Jitendra Jain.

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4. **Bombay Chamber of Commerce asks for IPR waiver on Covaxin**

At a time the World Trade Organisation (WTO) is preparing to hunker down to debate a contentious proposal to grant a waiver on intellectual property rights (IPR) on Covid-19 vaccines, the Bombay Chamber of Commerce & Industry (BCCI) has injected an element of controversy at home by suggesting that the Modi government ought to explore the possibility of permitting the issue of compulsory licences so that other vaccine providers can produce Covaxin under the Indian Patent Act in order to boost its production.

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5. **Childish Gambino faces 'This is America' Copyright Suit**

A Florida-based rapper is suing actor, musician, and writer Donald Glover for copyright infringement, citing elements of 2018 single "This is America", released under the Childish Gambino moniker. Kidd Wes filed the suit on May 5 at the US District Court for the Southern District of New York. At the heart of the suit is Gambino's "flow" in the chorus of "This is America". In hip-hop music, "flow" is generally used to describe the various elements of a rapper's vocal performance, or the "distinct and unique vocal cadence, delivery, rhythm, timing, phrasing, meter and/or pattern," as the complaint defines it.

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6. Disney Patents Blockchain-Based Movie Distribution System to Stop Pirates

As a prime content producer, Disney has a vested interest in keeping pirates at bay. The entertainment company is involved in various enforcement initiatives and a few days ago, added a new anti-piracy patent to its arsenal. With a blockchain-based distribution system, Disney hopes to make it harder for pirates to intercept films being distributed to movie theaters. It is worth noting that this anti-piracy system is focused on the content distribution and delivery process. This will, in theory, help to prevent pre-release leaks. However, it won't stop pirates from ripping movies and TV shows directly from Disney+.

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7. Meghan Markle wins last court copyright claim over letter to father in UK tabloid lawsuit

A British court upheld Meghan Markle's copyright claim against Associated Newspapers, the publisher of the Mail on Sunday and MailOnline, over its publication of a letter to her father. The ruling by

judge Mark Warby means the Duchess of Sussex, as Markle is formally known, has now won every part of her legal claim against the newspaper group, which published a handwritten letter she wrote to her father Thomas Markle.

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8. 'Peaky Blinders' producers lose bid to block similarly named alcohol

The production company that makes the British television series "Peaky Blinders" can't block the maker of "Peaky Blinder" liquor and beer from using its name for now, a Los Angeles federal court has ruled. Caryn Mandabach Productions Ltd didn't show that it owned a protectable trademark in the name, that Sadler's Brewhouse Ltd's products were likely to cause confusion, or that the alleged confusion caused it irreparable harm, U.S. District Judge Consuelo Marshall said, rejecting the production company's bid for a preliminary injunction.

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TECHNOLOGY

1. **RBI Tells Lenders to Reconsider Ties with Crypto Exchanges, Traders**

The Reserve Bank of India has formally urged lenders to cut ties with cryptocurrency exchanges and traders as the highly speculative market booms, despite a Supreme Court ruling that banks can work with the industry. The guidance comes as India is crafting a law to ban cryptocurrencies and penalise anyone dealing in them, which would be among the most sweeping crackdowns on the new investing fad in the world.

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2. **NPCI Refuses to Ban Cryptocurrencies in India: Leaves the Decision to Banks**

While the country continues to dabble with the idea of implementing a full-scale ban on cryptocurrency operations. The latest to provide some clarity on the matter is the National Payments Corporations of India (NPCI). Some bankers requested from the agency to block cryptocurrency transactions on its network. In its turn, the NPCI said it has no plans to ban digital asset operations and advised banking institutions to make their own decision.

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3. **RBI Instructs Companies to Enable PPI Interoperability by March 2022**

The Reserve Bank of India (RBI) has instructed pre-paid instrument (PPIs) operators to enable full interoperability to PPI cards and PPI e-wallets for those customers who have fulfilled the entire Know-Your-Customer (KYC) criteria. Payment companies will need to enable PPI interoperability by March 2022.

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4. **Government of India May Form a New Panel for Crypto-Regulations**

The government could set up a new panel to recommend the ideal course of action for regulating crypto-currencies. This development comes at a time when banks and payment companies are blocking their services to crypto-exchanges, as a result of which the exchanges are unable to accept fresh deposits and on-board new investors.

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5. **Dogecoin used to pay for lunar satellite mission with SpaceX**

The rise of the cryptocurrency Dogecoin has reached a new level after the token was used to pay for a lunar satellite launch. SpaceX, Elon Musk's commercial rocket firm, will embark on a Moon voyage in 2022 carrying a so-called cubesat -- a mini-satellite used for space research -- from Geometric Energy Corp. that's been paid for entirely in Dogecoin.

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6. **YouTube Updates Terms on Facial Data Collection, Monetization, And Tax On US Earnings**

YouTube notified its non-US users that it is updating its Terms of Service on the collection of facial recognition data, the company's right to monetize, and tax-withholding on US earnings. The new terms will take effect on 1 June 2021 for users outside the US. YouTube notified a similar update to US users in November 2020.

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DATA PROTECTION AND PRIVACY

1. **WhatsApp Moves High Court Against Government of India**

WhatsApp has filed a complaint with the Delhi high court against the new guidelines of the government under which digital media companies will have to disclose the identity of the "first originator of information" when asked for it. The Facebook-owned messaging platform with nearly 400 million users in India cited the right to privacy and asked the Delhi High Court to declare that one of the new rules is a violation of privacy rights in India's constitution.

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2. **Battlegrounds Mobile India 'big threat to security', MLA wants PM Modi to ban the PUBG Mobile alternative**

Ahead of the Battlegrounds Mobile India launch date announcement, former Union Minister and current Arunachal Pradesh MLA Ninong Erin is seeking a ban on the PUBG Mobile India alternative. Erin wrote to Prime Minister Narendra Modi requesting him to put a ban on the PUBG Mobile relaunch, aka Battlegrounds Mobile India.

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3. **Biden Signs Cybersecurity Executive Order After Colonial Pipeline Ransomware**

U.S. President Joe Biden signed an executive order that advances federal cybersecurity capabilities and encourages improvements in digital security standards across the private sector which has been

hit by a spate of cyber attacks. The executive order establishes a series of initiatives designed to better equip federal agencies with cybersecurity tools.

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4. **Vodafone Joins Up with Google Cloud on Data Analytics, FT Says**

As part of the six-year agreement, Vodafone will transfer data from its own servers to Google Cloud. Vodafone and Google will also invent a system, called Dynamo, that will extract and transport data across different countries where the telecoms company operates. The two companies will also in the future seek to sell consultancy services to other multinational businesses seeking to move huge amount.

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5. **TikTok Opens Transparency Center in Europe To Address Security and Privacy Concerns**

ByteDance's popular video sharing app TikTok has faced security and privacy concerns from most of the world outside of the company's native China, but has had particular legal trouble in the EU as of late. As consumer complaints in the region mount, TikTok will be opening a "transparency center" in a bid to address these concerns. TikTok's "European Transparency and Accountability Centre" is slated to open in Ireland sometime in 2022.

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RULES AND REGULATIONS CHANGES

1. India Notifies Rules for Digital Tax

Starting April 2022, overseas entities that don't have a physical presence in India but derive significant financial benefit from Indian customers will come under the Indian tax net. The levy will impact technology giants like Facebook Inc., Google, Amazon.com Inc., Alibaba Group Holding Ltd. and other such digital companies that derive considerable value from a large user base in India.

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2. United States: NY Privacy Act Reintroduced

On May 12, 2021, Senator Kevin Thomas reintroduced the New York Privacy Act (the "Act" or "NY Privacy Act") before the New York Senate. In 2019, Senator Thomas had hoped to pass privacy legislation S5642 (the "Bill") to amend the general business law to address the management and oversight of consumer personal information. The Bill was set aside during the 2019 coronavirus pandemic when priorities shifted to address

COVID-related issues. The purpose of reintroducing the NY Privacy Act is to "help New Yorkers regain their privacy." A similar bill has also been reintroduced in the New York Assembly

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3. Germany Adopts New Data Protection and Privacy Law

German data protection was until recently regulated by a series of laws. That led to legal uncertainty due to partially contradictory provisions. Both the Telemedia Act (TMG) and the recently amended Telecommunications Act (TKG) have prompted uncertainty in some quarters. The Data Protection Act passed on 20th May intends to unify the country's rules and bring them in line with the EU's General Data Protection Regulation (GDPR).

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