

# WRITE TO INFORMATION

Technology, Media, Telecommunication,  
November 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 AND ENTERTAINMENT NEWS

### 1. **Delhi High Court Grants Interim Injunction to Britannia Against Oral Care Seller 'Good Day' In Trademark Infringement Suit**

The Delhi High Court has recently granted an ad interim injunction to Britannia Industries against an oral care seller for allegedly using its identical trademark 'GOOD DAY'.

Justice Sanjeev Narula was of the prima facie view that Britannia's trademark 'GOOD DAY' has been acknowledged to be a well-known mark and therefore it will have a right to seek injunction in terms of Section 29(4) (b) of the Trade Marks Act 1999.

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### 2. **Nestlé revives suit over pet food TM**

Nestlé has secured a win in a trademark suit against pet products company Amigüitos Pets & Life, with the EU General Court ruling that a EU Intellectual Property Office (EUIPO) appeal board "misread" an earlier judgment.

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### 3. **PepsiCo faces preliminary injunction in trademark suit**

Cold-brew company Rise Brewing secured a preliminary injunction against food and beverage giant PepsiCo in the companies' on going trademark dispute on Wednesday, November 3.

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### 4. **Medical body frames tougher anti-ragging rules**

The National Medical Commission (NMC) has framed new regulation to curb incidents of ragging in medical institutions. The National Medical Commission (Prevention and Prohibition of Ragging in Medical Colleges and Institutions) Regulations 2021 has expanded the definition of ragging and recommended derecognition of a medical institution and reduction in admission capacity for failure to curb ragging incidents.

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### 5. **Use of trademark as keyword: Delhi High Court directs Google to probe into web traffic diversion**

The Delhi High Court recently directed Google to investigate into a complaint alleging that the use of a trademark and its variations as keywords on the search engine had resulted in the diversion of traffic from the owner's website to that of the advertiser [M/s DRS Logistics & Anr v. Google India Pvt Ltd & Ors].

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### 6. **Kerala High Court seeks explanation from GST Council on exclusion of petrol, diesel from GST**

The Kerala High Court on Monday directed the Goods and Services Tax (GST) Council to file a statement explaining the reasons for its decision to not include petroleum products within the ambit of GST [Kerala Pradesh Gandhi Darshanvedi Vs. Union of India].

A Division Bench of Chief Justice S Manikumar and Justice Shaji P Chaly directed the GST Council to file a statement in this regard within ten days while hearing a public interest litigation (PIL) petition filed by an organisation, Kerala Pradesh Gandhi Darshanvedi which claims, inter alia, to work towards achieving a welfare state.

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### 7. **Arbitration - Party Not Barred From Raising New Grounds To Set Aside Award In An Sec 37 Appeal: Supreme Court**

The Supreme Court observed that a party is not barred from raising an additional ground for setting aside an arbitration award in arbitration appeal under Section 37 of the Arbitration Conciliation Act, 1996, merely because the said ground was not raised in the petition under Section 34 to set aside the Arbitration award.

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**8. Kangana Ranaut booked by Mumbai Police for Instagram post about Sikh community**

Mumbai Police has registered a first information report (FIR) against actress Kangana Ranaut for putting objectionable posts on Instagram allegedly likening Sikh community to separatists. The FIR was filed basis a complaint by committee members of various Gurudwaras in Mumbai and Delhi. The actress has been booked under Section 295A of the Indian Penal Code for deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

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**9. Arbitral award can be modified under Section 33 of Arbitration Act only in case of arithmetic or clerical errors: Supreme Court**

The Supreme Court has held that an arbitral award can be modified by way of an application under Section 33 of the Arbitration and Conciliation Act, 1996 only in case of an arithmetic or a clerical error (Gyan Prakash Arya vs. M/s Titan Industries Limited).

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**10. Sale Deed Executed Without Payment Of Price Is Void; Has No Legal Effect: Supreme Court**

The Supreme Court observed that the payment of price is an essential part of a sale. If a sale deed in respect of an immovable property is executed without payment of price and if it does not provide for the payment of price at a future date, it is not a sale at all in the eyes of law, the bench comprising Justices Ajay Rastogi and Abhay S. Oka said. The court also observed that a document which is void need not be challenged by claiming a declaration as the said plea can be set up and proved even in collateral proceedings.

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**11. Future v. Amazon: Delhi High Court**

**Refuses To Stay Singapore Based Tribunal's Order Halting Reliance Deal**

The Delhi High Court on Friday rejected the plea filed by Future Group seeking an ad interim stay on the order passed by a Singapore based Arbitration Tribunal, refusing to interfere with the Emergency Award restraining it to continue with the Reliance deal.

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**12. The Board of Control for Cricket in India (BCCI) will appoint a neutral committee to look into CVC Capital Partners' alleged links with betting companies abroad.**

An IPL governing council meeting is expected to take place before the Board's AGM on December 4 to clear the formation of the neutral committee. The panel's ruling will be final and binding. If the BCCI decides not to allow CVC Capital Partners the ownership of the Ahmedabad franchise, then the third highest bidder, Adani (Rs 5,100 crores) will be in line to secure the franchise.

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**13. NIA Act- Division Bench Of High Court Should Hear Revision Petition Against Special Court Order : Supreme Court**

Holding that a revision petition against an order passed by a Special Court under the National Investigation Agency can lie only before a division bench of a High Court, the Supreme Court has set aside an order passed by the Kerala High Court in the case relating to alleged Maoist leader Roopesh.

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**14. BYJU's borrows \$1.2 bn to spend on acquisitions**

BYJU's has raised \$1.2 billion in debt, more than double its previous target, two people aware of the matter said, as India's most valuable start-up prepares a war chest for more acquisitions and for working capital ahead of a potential public listing next year.

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**15. Apple is issuing threat notifications to users who it believed were victims of 'state-sponsored attacks'**

Apple Inc. issued alert messages, via e-mail, to at least six Thai activists and researchers who have been critical of the government, warning it believed that their iPhones had been targeted by "state-sponsored attackers", according to activists and the alerts reviewed by Reuters.

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**16. PhonePe announces Esop buyback of up to ₹135 crore:**

The firm issued options to all its 2,200 staffers as part of the employee stock option plan (Esop) launched last December. The options had a minimum value of ₹3.5 lakh, totalling ₹1,500 crore. The founders will not participate in the buyback, but the top leadership of the company is eligible to sell a 10th of their vested options, while the other employees are allowed to liquidate up to a fourth of their vested options.

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**17. RuPay, the flagship product of National Payments Corporation of India has come on board as the title sponsor for 3 years, of the Prime Volleyball League, which is set to start in early 2022.**

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**18. Fortnite maker and Rocket League owner Epic Games has acquired Boston based game developer Harmonix. Harmonix is best known for developing the Guitar Hero series of music games and associated peripherals. Financial terms of the deal were not disclosed.**

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**19. The World Poker Tour and 888Poker have announced a new WPTDeepStacks online poker series .The series is called the WPTDeepStacks online series will feature 28 events and more than \$3 million USD in guaranteed prizes.**

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**20. Malicious Actors Hacked Google Cloud Platforms to Mine Cryptocurrencies: Report**

The threat horizon report by Google's cybersecurity team highlighted that 86% of the compromised Google Cloud instances were used to perform cryptocurrency mining, a cloud resource-intensive for-profit activity. Basis this report, Google has issued an urgent warning over Cloud accounts as cryptocurrency miners target users and hack these cloud accounts within 22 seconds.

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**21. US state attorneys general probe Instagram's effect on kids**

A bipartisan coalition of US state attorneys general has opened a probe into Facebook, now known as Meta Platforms Inc., for promoting its subsidiary Instagram to children despite potential harms. The investigation, involving at least nine states, comes at a time when Facebook is under scrutiny over its approach to children and young adults. The attorneys general are investigating whether the company violated consumer protection laws and put young people at risk, they said in emailed statements.

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**22. Amazon and Apple handed \$225 million in Italian antitrust fines**

Italy's antitrust authority has fined Amazon and Apple Inc a total of approximately \$225 million for alleged anti-competitive cooperation in the sale of Apple and Beats products. As per the agreement between the companies, only selected resellers were allowed to sell Apple and Beats products on Amazon. it, which was in violation of European Union rules and affected competition on prices.

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**23. 100+ lawyers move Supreme Court seeking full physical hearing, claim cannot trust virtual mode in Pegasus era**

Many Lawyers, including few members of Supreme Court Bar Association, have filed an application seeking resumption of full physical hearing. They have placed reliance on recent Pegasus spyware scandal and raised issues of cyber-security, confidentiality and data-privacy in support of their application. The application also stated that lawyers residing abroad are appearing before the Apex Court in matters concerning internal security, and cases regarding the farmers' agitation, which have international ramifications. The application was filed in a plea by the All India Association of Jurists and others seeking a direction to declare access to virtual courts a fundamental right.

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**24. Supreme Court reimposes construction ban in NCR; orders comprehensive scientific study**

The Supreme Court reimposed the construction ban in the national capital region (NCR) in view of worsening air quality in the NCR. The Court, however, said that non-polluting activities relating to construction such as the plumbing work, interior decoration, electrical work and carpentry can go on. (*Aditya Dubey v. Union of India*).

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**25. Diploma through distance mode cannot be equated with diploma through regular classroom studies: Supreme Court**

The Supreme Court held that a diploma earned through distance education mode cannot be equated with the diploma granted through regular classroom studies. The stated that "Equivalence of qualification is a matter for the State, as recruiting authority, to determine". The Court also stated that judicial review by court can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. (*Devender Bhaskar vs State of Haryana*)

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**26. Apple sues Israeli Spyware Maker NSO Group Over Pegasus Attacks**

Apple Inc. has filed a lawsuit against Israeli cyber firm NSO Group and its parent company OSY Technologies for alleged surveillance and targeting of U.S Apple users with its Pegasus spyware. In its lawsuit, Apple sought a permanent injunction to ban NSO Group from using any Apple software, services or devices and for the company to delete all information it collected from Apple users.

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**27. Facebook to shut down face-recognition system, delete data**

Facebook said it will shut down its face-recognition system and delete the faceprints of more than 1 billion people. "This change will represent one of the largest shifts in facial recognition usage in the technology's history," said a blog post Tuesday from Jerome Pesenti, vice president of artificial intelligence for Facebook's new parent company, Meta. "Its removal will result in the deletion of more than a billion people's individual facial recognition templates."

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**28. Trademark / Copyright Infringement: No Jurisdiction Based On Location Of Branch Office Where No Part Of Cause Of Action Has Arisen- Madras High Court**

In a significant order, Madras High Court has given clarity about the interpretation of the phrase "actually and voluntarily resides or carries on business or personally works for gain" in Section 134(2) of Trade Marks Act and Section 62(2) of the Copyright Act, which determines the territorial the territorial jurisdiction of the courts concerned. In an application filed by the defendant challenging the territorial jurisdiction of the Commercial Division of the Court to adjudicate on an alleged trademark and copyright infringement, Justice Anand Venkatesh has observed that the discretion of plaintiff to file a suit

where the plaintiff carries on business is not unconditional.

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**29. EU lawmakers pass strict new rules affecting Big US Tech**

A key committee of the European Parliament approved their version of the Digital Markets Act, legislation that will slap far-reaching rules on Facebook, Google, Amazon, Apple and Microsoft. If this law is approved it shall mean that

A company's messaging or social media app is interoperable, to prevent users feeling forced to use one or the other because that's where their friends are

A ban on behavioral targeting of ads to minors

Fines of as much as 20% of a company's global annual sales for breach of the law

The vote is now set to go to the full European Parliament in December, with its companion law, the Digital Services Act, expected to be passed in January.

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**30. Rakesh Jhunjhunwala-backed Star Health's IPO opens soon**

Rakesh Jhunjhunwala-backed Star Health and Allied Insurance's initial public offering (IPO) will open for subscription November 30 and the three-day share sale will conclude on December 2. The price band for its public offering has been fixed at ₹870-900 per share.

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**31. Zee News headlines in clear violation of Code of Ethics and broadcasting guidelines: NBDSA**

In its decision on multiple complaints registered against Zee News' coverage of the farmers protests, the News Broadcasting & Digital Standards Authority (NBDSA) noted that certain headlines and taglines used by the channel were in violation of existing norms. It asked the channel to

remove all the videos concerned across platforms, which were found to be in violation of existing codes and guidelines, and to give in writing about the compliance with the same within seven days of receiving the order.

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**32. Google, Facebook, and Netflix to pay a minimum global tax at 15%**

Representatives from 136 nations, including India have finalised a global tax deal which will ensure large digital players--Google, Facebook, Netflix, and Microsoft-- pay a minimum tax rate of 15 per cent, wherever they operate, said the Organisation for Economic Cooperation and Development (OECD) on Friday. The tax deal to come into effect from 2023.

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**33. [Consumer Protection Act] Homebuyer is consumer unless he purchased flat for selling: NCDRC**

A homebuyer is a consumer Section 2(1)(d) of the Consumer Protection Act, 1986 unless he is into the activity of buying/ selling the properties and purchased the house for that purpose, the National Consumer Disputes Redressal Commission (NCDRC) has reaffirmed (Aloke Anand V M/S Ireo Pvt Ltd and Ors).

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**34. North Korean citizen importing 'Squid Game' on USB drive shot dead; several students imprisoned: Report**

According to a report in American news outlet Radio Free Asia (RFA), North Korea sentenced several high school students to severe punishment after being caught watching 'Squid Game' secretly. One of the citizens who imported the show on USB drives across the border was shot to death and the student who purchased the USB was sentenced to life in prison. Reportedly, the other students who watched with him were sentenced to five years of labour reformation.

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**35. 'Arbitrary And Illegal"- Lawyer Moves Supreme Court Challenging Suspension Of Internet Services In Rajasthan**

While terming the 'arbitrary practise' of internet shutdown a definite practice of the State of Rajasthan whenever there is a competitive state level examination, a lawyer has moved the Supreme Court against the suspension of Internet services in Jaipur and several other districts to conduct the Rajasthan Administrative Services (Prelims) Examination conducted by the Rajasthan Public Service Commission.

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**36. Apple wins case against Optis in latest 3G/4G patent trial**

Recently, the High Court of England and Wales in the matter of *Optis Cellular Technology LLC and others v Apple Distribution International and others*, HP-2019-000006, held that a patent owned by three subsidiaries of the PanOptis group for technology used in 3G and 4G wireless devices is obvious and uninventive and therefore invalid. The case was filed by Optis that Apple is infringing seven patents owned by the group by offering 4G Long-

Term Evolution capability, or LTE, on the iPhone, iPad and Apple Watch.

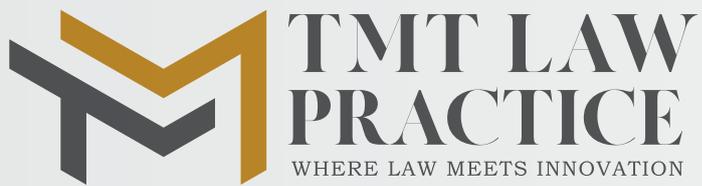
The present judgment is in a contrast with a judgment in a parallel litigation in the United States, where Apple was found by a federal jury in Texas last year to have infringed standard-essential 4G wireless patents held by PanOptis. The jury delivered a \$300 million verdict against the Apple in a trial over damages in August.

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**37. NCLT stays investors' meet at Future Group**

A company court restrained Future Group from calling shareholders' meetings to seek approval for its proposed ₹24,713 crore asset sale to Reliance Industries Ltd, in a legal setback for the cash-strapped group. Following a hearing on Monday, the National Company Law Tribunal (NCLT) changed its earlier stance by stopping Future Group companies from holding the meetings.

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Established in 2008, headquartered in New Delhi, with branch office in Bengaluru, Mumbai and Bhuvneshwar, TMT Law Practice is India's premiere Law Firm in segment of Technology, Media and Telecom, behind India's iconic clients and judgements, often cited for "Where Law Meets Innovation"...

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