

## RKD NewsNet September 2018

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### **The Game of Apples!**

Apo International, a Taiwan based projector lamp supplier, applied for the registration of a logo consisting of a stylized half apple alongside the word 'apo' in lowercase, as shown below, in 2016. The specification of goods by Apo International for this logo included projectors, advertising and laboratory lamps.



VS



Apple Inc. opposed the registration of the proposed mark based on its registered logo of a bitten apple and its registered wordmark 'Apple'. In the first round of litigation at the European Union IP Office, based in Alicante, Spain disagreed with Apple Inc., and allowed the registration on the grounds that the goods were different and the marks were distinct.

Apple Inc. appealed to the General Court. In the second round of litigation, Apple Inc. was able to prevail and it was held that use of the mark of the stylized apple alongside the word 'apo' was deceptively similar.

What do you think?

### **EU Copyright Directives**



The Digital Age has indeed brought in a lot of ease in human lives and this growing technology is continuing to make us dependent unconsciously. In addition, the comparatively new Intellectual Property rights evolved has been time and again challenged due to the growth of technology. On one hand it has provided for larger platforms to share an individuals' original work, whereas on the other hand it has lost control of the material shared due to 'free access' and has created unrest among the owners of such works.

EU Data Privacy Laws have known to be one of the most stringent laws across the globe and only recently there has been proposed and now accepted a mammoth change with respect to the EU directive on Copyright. The most controversial of these directives are Article 11 and Article 13.



*Article 11: Protection of press publications concerning digital uses.*

Also called the Link-tax, this provision elaborates on social platforms such as Facebook, Twitter, Google, to obtain copyright licenses from the publishers. Under this directive the right for publishers would extend for a period of 20

years from the date of publication. The Commission intends to provide income for the publishers for displaying 'snippets' of their originally owned content on social platforms to the users and simultaneously protect copyrights involved.

*Article 13: Use of protected content by information society service providers storing and giving access to large amounts of works and other subject-matter uploaded by their users.*

This focuses on the relationship between the copyright holders and online platforms, compelling the latter to enforce tighter regulations over protected content. This in simple words extends to remixes, memes, GIFs, and other such entertainment based links will need to be filtered and checked for copyright infringement. This article requires internet platforms to install a software copyright filter which will allow only copyright free work to be uploaded and ensure that copyrighted works are uploaded only after the due licenses are obtained.



Though these copyright directives have been voted for by the Member of European Parliament (MEP) in majority, there persists a lot of speculation with regard to the implementation of the directives. These directives puts an end to all the 'free lunches' enjoyed by the social platforms who will now have to pay for the uploading of works. These directives aim at curbing the profitability and popularity gained by these platforms gained by violating copyrights. The only certain aspect at this point is that all social platforms most being American companies, will have to amend their policies according to the new directives in order to sustain in the European Markets.

## **Design Infringement? or Not?**

The Jeep Product line of Fiat Chrysler Automobiles has become their main stay and is one of the reasons for the growth of the sales of the company. Early this month, the company reported its highest ever sales for Jeep brand vehicles in July, up 16%, to power the company's overall 5.9% jump from a year ago. A picture of the Jeep Wrangler is depicted below. The front of the Jeep Wrangler has its characteristic boxy body shape and '7 *slat grille*' which displays 7 vertical slats with two round headlamps on either side.

### JEEP WRANGLER



Mahindra and Mahindra Ltd., an Indian based company, started selling the 'Mahindra ROXOR' in the US market at a significantly lower cost than the Jeep Wrangler. As shown in the picture below, the Mahindra ROXOR has a 4 and half *slat grille* with headlamps on either side of the grille.

### MAHINDRA ROXOR



Before manufacturing the ROXOR with the grille, Mahindra had entered into a license agreement in 2009 to use the grille on the vehicle to be sold in the US market. Mahindra contends that the grilles on both the vehicles are different. In spite of this agreement, Fiat has filed for a suit to stop imports and sale of ROXOR products in USA.

This suit filed by Fiat Chrysler appears to be an attempt to safeguard its sales and profits in the American market, rather than a design infringement case. What do you think?

## **Innovation in India: Atal Ranking**

There is a dire need of an innovation culture to be inculcated in India at the Educational Institute Level in order to maintain pace with other countries across the globe.

It is known that the 21st Century is the century of innovation. In honour of the former Prime Minister of India, Atal Bihari Vajpayee, Dr. Satya Pal Singh, the Union Minister of State for HRD, launched the '*Atal' Ranking of Institutions on Innovation Achievements* (ARIIA) and *Innovation Cell* at All India Council for Technical Education (AICTE), New Delhi on August 30, 2018. This initiative has been established at AICTE premises to systematically foster the culture of Innovation in all Higher Education Institutions (HEIs) across the country. The aim of the Innovation Cell is to encourage, inspire and train young students by exposing them to new ideas and processes resulting in an inquisitive mindset and innovative activities in their early years in the field through the wide Network of Innovation clubs in Higher Educational Institutions.

Atal Ranking of Institutions on Innovation Achievements (ARIIA): The key to growth is to convert research into innovation. It is thus, mandatory to create a sustainable environment for such research and innovation to take place. The Ministry of Human Resource Development, has introduced the ARIIA, which will rank institutions and universities



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on the basis of innovation related indicators which are common to the globally used indicators to calculate innovation progress in a country.



The major 5 parameters relied upon for ARIIA are:

- Budget Expenses and Revenue generated through Innovation and entrepreneurship development
- Facilitating access to advance centres / facilities and entrepreneurial support system
- Idea to Entrepreneurship
- Development of Innovation Ecosystems Supported through Teaching & Learning
- Best innovative solutions Developed In-house for Improving Governance of Your Institution

The primary objective is to inspire institutions to encourage high quality research, innovation and entrepreneurship. ARIIA will focus on quality of innovations and will try to measure the actual impact created by these innovations nationally and internationally.

Higher Education Institutions are supposed to submit their applications by November 30, 2018 and the results for ARIIA will be announced in April, 2019.