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**MEDIA AND ENTERTAINMENT NEWSLETTER**  
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## **DELHI HIGH COURT INTRODUCES 'DYNAMIC + INJUNCTION' TO TACKLE ILLEGAL STREAMING OF CURRENT AND FUTURE CONTENT FROM 6 STUDIOS**

The Delhi High Court issued a 'Dynamic + injunction' against 16 (sixteen) rogue websites and their variations, barring them from streaming or offering downloads of copyrighted content from six studios: Netflix, Disney, Warner Bros, Columbia Pictures, Paramount Pictures, and Universal City Studios. The court highlighted the need for swift action due to these websites' ever-changing nature, protecting creators from potential losses. The court emphasized the global challenge of protecting copyrights as rogue websites can evade restrictions. The Court issued the "Dynamic+ Injunction" to protect copyrighted works as soon as they are created, to ensure that no irreparable loss is caused to the authors and owners of copyrighted works, as there was an imminent possibility of works being uploaded on rogue websites or their newer versions immediately upon the films/shows/series etc.

**Case Name:** Universal City Studios LLC & Ors Vs. DotMovies.Baby & Others

**Citation:** CS(COMM) 514/2023

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## **PRESIDENT GRANTS ASSENT TO DIGITAL PERSONAL DATA PROTECTION BILL, 2023**

On August 9, Rajya Sabha has passed the DPDP Bill unanimously, thereby becoming the Digital Personal Data Protection Act, 2023 ("Act"). On August 7, despite opposition, Lok Sabha had passed it by voice vote. After being passed in both houses of the Parliament, the President of India, Droupadi Murmu, granted assent to the Act. The Act intends to, inter alia, protect digital personal data and any offline data which was digitized subsequently by balancing the power of data principals by granting them certain rights and the obligation on the fiduciaries to legitimately process such data for relevant purposes and erasing the same upon completion of its purpose.

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## **MADRAS HIGH COURT SET TO ADDRESS PIL DEMANDING RE-EVALUATION OF UA CERTIFICATE FOR RAJNIKANTH'S JAILER**

A public interest litigation (PIL) filed in the Madras High Court seeks to revoke the UA certificate issued to the film titled 'Jailer' starring Rajnikanth, that allows children aged below 12 to watch the movie with parental guidance. The PIL argues that several violent scenes depicting violence was unsuitable for children. The petitioner claims the film includes disturbing scenes of people being hung upside down and attacked with a hammer, as well as a beheading. The CBFC Chairman, the Chennai Regional Officer, the said Film's producer (Sun Pictures) and the director (Nelson Dileepkumar) are named as the Respondents in the aforesaid matter

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## **DELHI HIGH COURT AFFIRMS SATYAJIT RAY AS ORIGINAL COPYRIGHT HOLDER OF BENGALI FILM NAYAK**

The Delhi High Court has upheld a ruling that filmmaker Satyajit Ray owns the copyright over the screenplay of the 1966 Bengali film "Nayak", including the right to novelize the screenplay. A division bench rejected an appeal by RDB and Co. HUF, who contested the ruling. The plaintiff HUF sought to prevent Harpercollins from turning Bhaskar Chattopadhyay's film into a novel. The single judge had earlier allowed Harpercollins' request for a summary judgment, and dismissed the suit due to lack of cause. The division bench upheld this decision, stating that Ray's copyright as the screenplay author is distinct from any rights claimed by the plaintiff HUF regarding the film itself.

**Case Name:** RDB And Co. HUF Vs Harpercollins Publishers India Private Limited

**Citation:** CS(COMM) 246/2021

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## **DELHI HIGH COURT BARS GOLDMINES TELEFILMS FROM UPLOADING T-SERIES SONGS IN COPYRIGHT BATTLE**

The Delhi High Court has instructed Goldmines Telefilms to not upload songs from 14 Hindi films on YouTube. This decision came after T-Series' alleged copyright infringement, asserting ownership of prior assignment deeds for audio-visual, literary, artistic, dramatic, and musical works for the songs. T-Series argued that Goldmines Telefilms lacks the right to authorize the songs' uploading on YouTube. The court ruled not to further upload any audio or audio-visual works from the suit films apart from those already uploaded until the next hearing, considering the disputes at hand, to maintain the current status quo.

**Case Name:** Super Cassettes Industries Pvt. Ltd. v. Goldmines Telefilms Pvt.

**Citation:** 2023 SCC Online Del 4777

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## **SUPREME COURT'S NEW GUIDELINES AIM TO BOLSTER SELF-REGULATION OF TV CHANNELS**

The Supreme Court intends to establish stronger self-regulation guidelines for TV channels, criticizing the ineffectiveness of the current system governed by the News Broadcasters Association (NBA). During a hearing prompted by a plea from NBA, the court questioned the efficacy of fine of INR 1,00,000/- (Indian Rupees One Lakh only) for channels and suggested fines should be in proportion to the profits earned from the show. The court emphasized the necessity for a potent self-regulatory framework, highlighting that media should avoid government censorship while ensuring effectiveness.

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## **CENTRE UNVEILS GUIDELINES FOR HEALTH CELEBRITIES AND VIRTUAL INFLUENCERS**

Celebrities and influencers, including virtual influencers (computer-generated characters), are now required to provide clear disclaimers if they portray themselves as health experts or make any health-related assertions,

according to new guidelines issued by the Ministry of Consumer Affairs on August 10, 2023. These guidelines are an extension of the 2022 Guidelines for Preventing Misleading Advertisements and Endorsements and replace the "Endorsement Know-hows!" guidelines released on January 20, 2023. The additional guidelines, which apply to certified medical practitioners, health and fitness experts, celebrities, influencers, and virtual influencers, aim to address issues related to deceptive advertising, unsupported claims, and promote transparency in health and wellness endorsements.

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## **DELHI HIGH COURT REJECTS INJUNCTION PLEA IN TELUGU FILM CASE AGAINST AKSHAY KUMAR STARRER MAKERS**

The Delhi High Court has ruled against the plea put forth by the production house for iconic Akshay Kumar-starrer movies "Khiladi" and "Main Khiladi Tu Anari". The plea revolved around the use of the word "Khiladi" in the title of a Telugu film. A single-judge bench of Justice Jyoti Singh rejected the interim injunction against the use of the word "Khiladi" instituted by the Plaintiff, the production company which produced the 1992 movie featuring Akshay Kumar. The Court dismissed the plea on the ground that the 1992 movie's monumental success which made Akshay Kumar "Khiladi Kumar", doesn't automatically grant the Plaintiff's production company a monopoly on the term "Khiladi" for the purpose of claiming infringement, in absence of registration.

**Case Name:** Venus Worldwide Entertainment Private Limited vs Popular Entertainment Network (PEN) Private Limited & ANR.

**Citation:** CS(COMM) 100/2022

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## **HATE SPEECH CASE AGAINST SUDHIR CHAUDHARY OF ZEE NEWS QUASHED BY CALCUTTA HIGH COURT**

The Calcutta High Court quashed a hate speech case against Former Zee News Editor Sudhir Chaudhary, Zee News Journalist Pooja Mehta and cameraperson Tanmay Mukherjee under Section 153A of the Indian Penal Code for allegedly promoting enmity during their

coverage on Dhulagarh disturbances from 2016. “In the premises set forth, further proceeding with this case would result in an abuse of process of court and will not serve the ends of justice,” the Court ruled. “No option is left to this court but to quash the proceedings.”

**Case Name:** Pooja Mehta vs State of West Bengal

**Citation:** CRR/85/2017

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### **RCB JERSEY' TO STAY OUT OF JAILER MOVIE, DELHI HIGH COURT RULES IN FAVOR OF IPL TEAM**

Justice Prathiba M Singh was dealing with a suit filed by the Royal Challengers Sports Private Limited, who owns Royal Challengers Bangalore (RCB), a team of Indian Premier League (IPL). The Plaintiff stated that in the Rajinikanth starrer movie ‘Jailer’ produced by Sun Pictures, one of the scenes depict a contract killer who is wearing the RCB jersey and making derogatory and misogynistic statements about a lady. The Court was later informed that the Parties had resolved their dispute. Therefore, the Court held that “With effect from 1st September, 2023, in the theatrical depiction of the film Jailer the RCB team jersey shall stand edited/alterd. The Defendants shall ensure that after 1st September, 2023, none of the theatres would exhibit the RCB jersey in any form whatsoever. Insofar as television, satellite or any OTT platform is concerned, prior to the release thereof, OTT platform is concerned, prior to the release thereof, the altered version of the film shall be broadcasted/telecasted.”

**Case Name:** Royal Challengers Sports Private Limited vs Sun Pictures

**Citation:** CS(COMM) 581/2023

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### **NCLT HAS APPROVED ZEE-SONY DEAL**

In a significant move, Zee, backed by Subhash Chandra's Essel Group, announced plans last year to merge with Sony Pictures Networks India. This union, recently received an approval from the National Company Law Tribunal (NCLT) for the merger of Zee Entertainment Enterprises with Culver Max Entertainment (formerly Sony Pictures Networks India). There were initial objections from various

creditors, including IDBI Bank and Imax Corp. The NCLT's Mumbai bench has dismissed all objections against the proposed merger.

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### **PRODUCERS OF ‘SWATANTRYA VEER SARVARKAR’ AND RANDEEP HOODA ENTER INTO A COPYRIGHT BATTLE**

A copyright battle has emerged between the producer of the film ‘Swatanrya Veer Sarvarkar’, Randeep Hooda, along with the co-producers of the film. The co-producers were served with a legal notice stating that Hooda had been approached to play lead role while the script was not finalized. Later, Randeep Hooda had to commence shooting from June, 2022. However, since the director had to leave, Hooda had to take over the film and even allegedly invested his own amounts. The issue has arisen regarding the rights over the film. Hooda alleges that he is the sole owner, while Sandeep Singh has called the claims of Hooda as “false and baseless”. He claims he wasn't paid his dues for the role by the co-producers after the initial signing amount.

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### **LEGAL BATTLE OVER “DREAM GIRL 2” RELEASE: BOMBAY HIGH COURT REJECTS STAY**

The court's decision came in response to a copyright infringement lawsuit brought forth by an individual named Ashim Bagchi. The Petitioner alleged that the film's storyline bore striking similarities to a script called “Show Must Go On” he had registered with the Film Screen Writers Association in 2007. After viewing the trailer for "Dream Girl 2" on August 1, 2023, Bagchi claimed he identified numerous similarities in the plot and character portrayal. Approaching the High Court, in his plea, he sought an order to halt the film's release until the copyright lawsuit was thoroughly examined. The case was heard by Justice RI Chagla, who considered arguments from all involved parties and highlighted that it's a well-established principle that films should not be prevented from release at the last moment. The Court stated that “an opportunity is required to be given to Respondent / Defendant to file their reply to the Interim Application”.

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## **DELHI HIGH COURT RULES AGAINST GOOGLE IN TRADEMARK KEYWORD USAGE CASE, DENIES SAFE HARBOR PROTECTION UNDER IT ACT**

The Delhi High Court has recently made a significant decision, asserting that Google's practice of employing trademarks as keywords within its 'Ads Programme' qualifies as "use" under the Trademarks Act, 1999. Moreover, the court ruled that in instances of trademark infringement, Google cannot avail itself of the "safe harbor" provision provided by the Information Technology Act, 2000 if such keywords infringes on the concerned trademark. This decision, issued on August 10th by a division bench comprising Justice Vibhu Bakhru and Justice Amit Mahajan, emphasizes that Google actively participates in the utilization of trademarked assets. The bench expressed reservations about granting the search engine exemption from trademark infringement liability due to its use of trademarks as keywords, as per Section 79 of the Information Technology (IT) Act.

**Case Name:** Google LLC v. DRS Logistics (P) Ltd. & Ors.

**Citation:**FAO(OS)(COMM) 2/2022

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## **DELHI HIGH COURT REJECTS RELIANCE ON CHATGPT IN CHRISTIAN LOUBOUTIN'S LAWSUIT OVER 'RED SOLE' SHOES**

The Delhi High Court has highlighted that artificial intelligence, like ChatGPT, cannot replace human judgment in legal proceedings. In a case involving Christian Louboutin's "red sole" trademark in India, ChatGPT responses were not considered. The luxury brand claimed trademark infringement, and although ChatGPT was used to discuss its reputation, a settlement was reached with the defendant agreeing not to copy the designs and pay damages if breached. The Court also imposed costs on the defendant for misrepresentation. The Court, however, underscored that ChatGPT cannot serve as the basis for legal decisions due to its dependence on various factors and the potential for incorrect or imaginative AI-generated responses.

**Case Name:** Christian Louboutin v. M/S The Shoe

**Citation:** CS(COMM) 583/2023

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# INTERNATIONAL

## **GOOGLE AND UNIVERSAL MUSIC EXPLORE AI 'DEEP FAKES' COLLABORATION**

Recent reports from the Financial Times reveal discussions between Google and Universal Music. They are exploring licensing options for artists voices and melodies to be used in AI-generated songs. This aims to create a legal pathway for fans to produce music while compensating copyright owners. Artists may choose to participate or opt out of this initiative.

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to be contentious. This potential lawsuit could result in a significant legal dispute centred on copyright issues in the context of generative artificial intelligence. If OpenAI is found to have violated copyright laws, federal regulations could require the removal of infringing materials, potentially leading to the reconstruction of ChatGPT's dataset using authorized content.

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## **DUA LIPA FACING A \$20 MILLION COPYRIGHT LAWSUIT SURROUNDING 'LEVITATING' SONG**

Singer Dua Lipa is facing 20 million dollars copyright lawsuit due to the unauthorized use in her single "Levitating" which has allegedly used a recording of a talk box in her hit song "Levitating". Musician Bosko Kante filed the claim, asserting that Lipa utilized his talk box recording in song remixes without permission. The device imitates musical instruments through vibrations. The lawsuit, states that while Lipa had permission for the original recording, subsequent releases like reused the work without permission including The Blessed Madonna remix, which featured Madonna and the Missy Elliott remix featuring DaBaby and including a performance by Dua Lipa at the American Music Awards.

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## **LANDMARK RULING DEEMS AI-CRAFTED ART UNFIT FOR COPYRIGHT, SENDING RIPPLES THROUGH HOLLYWOOD STUDIOS**

With the writer's strike surpassing 100 days, concerns are growing about studios resorting to AI for scriptwriting. However, the law remains steadfast: copyright is granted solely to human-created works. A recent federal ruling backs this principle. A judge upheld the U.S. Copyright Office's decision that AI-generated art lacks protection. The ruling came while rejecting Stephen Thaler's attempt to challenge the government's refusal to register AI-made works. This verdict underscores the current legal stance, asserting that copyright law doesn't extend to "works generated by new forms of technology operating absent any guiding human hand".

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## **CONTEMPLATION OF LEGAL ACTION BY THE NEW YORK TIMES AGAINST OPENAI: AI VS JOURNALISM**

Representatives from The New York Times are reportedly considering the possibility of taking legal action against OpenAI to protect their intellectual property rights related to their journalistic content. The discussions between The Times and OpenAI regarding a licensing agreement have been tense, with The Times contemplating legal action if the negotiations continue

## **PARTIAL PATENT FOR NETFLIX PAVES THE WAY TO BLOCK RIVAL'S ASSET MANOEUVRES**

In June 2023, the Federal Patent Court invalidated European Patent EP 2 661 696 owned by DivX, marking a significant victory for Netflix. This overturns a prior unfavorable infringement ruling that restricted Netflix's use of the claimed technology. DivX had filed patent infringement lawsuits against Netflix in various jurisdictions. In Germany, DivX secured initial injunctions, but the Federal Patent Court subsequently invalidated these patents. The court found the EP 696 patent lacked novelty and contained inadmissible

extensions. Although DivX may appeal, Netflix anticipates a final victory, bolstered by its legal and technical expertise. This win reflects a turning point in the German legal battle between the two companies.

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### **EMPLOYERS MAY BE HELD VICARIOUSLY ACCOUNTABLE FOR THEIR EMPLOYEES' VIOLATIONS OF COPYRIGHT.**

In Siemens Industry Software Inc v. Inzign Pte Ltd [2023] SGHC 50. The General Division of the High Court of Singapore found the Defendant-employer vicariously liable for acts of copyright infringement committed by its employee. Despite the fact that the employer was primarily liable and did not authorize the infringing conduct, they nonetheless occurred, hence making the defendant vicariously liable due to their negligence to take reasonable steps to prevent the infringing acts. The ruling is a relief for copyright owners who struggle to enforce their rights, particularly in the online environment. Particularly, copyright holders are now shielded from criticism over the existence of pirated versions of their works online and from having to defend their copyright protection policies and the targets of their enforcement.

**Case Name:** Siemens Industry Software Inc v. Inzign Pte Ltd,

**Citation:** [2023] SGHC 50

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### **LOUBOUTIN IS GRANTED AN INJUNCTION IN THE MOST RECENT RED SOLE TRADEMARK REGISTRATION BID.**

In the most recent phase of its attempt to register its red sole as a trademark in Brazil, Christian Louboutin won the support of a Rio de Janeiro district court. After having its trademark application for the use of the color red on high-heel shoe soles rejected by the Brazilian Patent and Trademark Office ("BPTO") in May,

Louboutin's legal representatives asked for the decision to be overturned. The 13th Federal Court of Rio de Janeiro has granted an injunction to French footwear company Louboutin, marking one of the first administrative-level evaluations of the registrability of "position" trademarks in South America. This is a preliminary, but nonetheless significant, victory for Louboutin.

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### **EMINEM INDICATES LEGAL ACTION AGAINST VIVEK RAMASWAMY FOR USING "LOSE YOURSELF" DURING CAMPAIGN EVENTS**

Vivek Ramaswamy is being threatened with legal action by Eminem for exploiting his song "Lose Yourself." According to a copy of the letter obtained by PEOPLE, Eminem's music performing rights organization BMI has since sent a cease-and-desist letter to Ramaswamy's campaign attorney, Stephen Roberts. The Republican presidential candidate rapped the lyrics to the 2002 song while campaigning at the Iowa State Fair in Des Moines on August 12. BMI had "received a communication from Marshall B. Mathers III, professionally known as Eminem, objecting to the Vivek Ramaswamy campaign's use of Eminem's musical compositions." The letter said, "BMI will consider any performance of the Eminem Works by the Vivek 2024 campaign from this date forward to be a material breach of the Agreement for which BMI reserves all rights and remedies with respect thereto".

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# FIRM HIGHLIGHTS



## BOMBAY HIGH COURT REFUSES TO STAY RELEASE OF HINDI FILM DREAM GIRL 2

The Bombay High Court on August 22 refused to stay the release of the Hindi film Dream Girl 2 in a copyright infringement suit filed against the movie by an individual. Advocates Rahul Dhote, Anushree Rauta, Shwetank Tripathi, Vidit Desai, Umang Sheth and Radhika Mehta briefed by ANM Global appeared for Balaji Telefilms.

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## CELEBRATING REMARKABLE ACHIEVEMENTS AT THE 69TH NATIONAL FILM AWARDS!

A heartfelt congratulations to Vivek Agnihotri's production house 'I am Buddha Entertainment' for their remarkable accomplishment! The film "The Kashmir Files" has been awarded the Nargis Dutt Award for Best Film on National Integration at the 69th National Film Awards. We are honoured to have played a part in supporting these exceptional films and their creative minds. As legal partners, we share in their joy and take pride in contributing to their journey of success.

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## SHWETANK TRIPATHI JOINS ANM GLOBAL AS ASSOCIATE PARTNER IN IP PRACTICE

Khaitan & Co's Senior Associate Shwetank Tripathi has left the firm to join ANM Global as an Associate Partner in the firm's Intellectual Property Rights (IPR) practice. Tripathi is a 2012 graduate of the Dr. RML National Law University, Lucknow.

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