

NEWSLETTER APRIL, 2023

NATIONAL

Bombay high court passes landmark judgement upholding the rights of IPRS against private FM radio broadcasters

The Bombay High Court has ruled in favour of The Indian Performing Right Society Limited (IPRS) in cases titled IPRS vs Rajasthan Patrika and IPRS vs Music Broadcast Limited. The court agreed with IPRS's argument that FM radio broadcasters must pay royalties for the use of literary and musical works underlying sound recordings, in addition to any payments made to the owners of the sound recordings.

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Warner Bros. Discovery and Viacom18 announce exclusive content partnership for India

Warner Bros. Discovery and Viacom18 have recently announced a new agreement which will make JioCinema, India's new streaming platform for HBO, Max Original, and Warner Bros. content starting from next month. This partnership will give JioCinema exclusive content rights for both digital and linear platforms, and it represents a significant milestone for both companies as they aim to deliver high-quality content to their audiences. The deal includes current and upcoming seasons of popular HBO series like Succession, The White Lotus, House of The Dragon, and The Last of Us, as well as returning seasons of Euphoria, True Detective: Night Country, Winning Time: The Rise of the Lakers Dynasty, and Perry Mason.

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Delhi High Court clarifies that Right of publicity not absolute;

In a suit filed by Digital Collectibles Pte. Ltd. NFT-based digital collectibles platform under the trade name RARIO, the Delhi High Court refused to grant an injunction to RARIO against the fantasy gaming platform STRIKER.

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M/s. Phonographic Performance Limited v Entertainment Network (India) Limited

The Madras High Court in a case titled M/s. Phonographic Performance Limited v Entertainment Network (India) Limited stated that South India Music Company Association (SIMCA) is not bound by the Copyright Board Order. Further, while upholding the royalty to be paid by the radio stations as compulsory license fee, which is set at 2% of the net advertising revenue by the Copyright Board, the court in its order also added a minimum floor rate payable to PPL at Rs.660/- per needle hour uniformly irrespective of the timing or city/-town when the songs were played, wherein the court stated that minimum rate would apply only when the respondents state that they are not payable any royalty at all consequent to expenses incurred.

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Agreement between IMI and the Indian Singers Rights Association (ISRA) for performer rights revenues

IMI represents the interests of more than 200 music labels in India, while ISRA works to protect the rights of more than 750 performer members. The agreement signed between IMI and ISRA will see flow of revenue to ISRA members for their performance. While the details of the deals are yet undisclosed, under the terms of the agreement, 25% of the amount collected domestically by Phonographic Performance Limited (PPL) from licensing the sound recordings of its members will be shared with ISRA.

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Cinefil Producers Performance Limited receives registration as a Copyright Society for Cinematograph Films

Cinefil Producers Performance Limited (CPPL) has been granted registration as a Copyright Society under Section 33(3) of the Copyright Act, 1957, specifically for cinematograph films. The organization applied for registration on November 14, 2018, and the Copyright Office issued a public notice about it on November 22 of the same year. As per the website, CPPL's main objective is to serve as a copyright administration company, primarily focused on monetizing the public performance right of cinematograph film works (videos) that are communicated to the public in various below the line avenues such as hotels, restaurants, auditoriums, discotheques, lounges, housing societies, campground parks, buses.

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Cabinet approves Cinematograph (Amendment) Bill, 2023

The Union Cabinet has approved the Cinematograph (Amendment) Bill, 2023, which includes provisions for stronger criminal measures such as imprisonment ranging from three months to three years and a fine of Rs 3-10 lakh which may extend to a sum of up to 5 per cent of the audited gross production cost of the film, to prevent film piracy, and offers more categories for film certification in line with the sub-categorization implemented for OTT content under the Information Technology Rules, 2021. The Bill proposes amendments pertaining to the certification of films under the 'unrestricted public exhibition', introducing new film certification categories including 'U' or universal, 'U/A 7+', 'U/A 13+', and 'U/A 16+', besides an 'A' rating.

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Media bodies reject TRAI's proposal for a unified legal framework

A group of media organizations have jointly objected to a proposal put forth by the Telecom Regulatory Authority of India (TRAI) to create a comprehensive legal framework for both telecom and broadcasting services. They made their opposition known in a joint submission to TRAI's consultation paper. Media organizations, like the Indian Broadcasting and Digital Foundation, the Internet and Mobile Association of India, the Digital News Publishers Association, the Association of Radio Operators for India, and the All India Digital Cable Federation, have stated in a joint submission that they do not agree with the proposal to establish a comprehensive legal framework for telecom and broadcasting services.

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Karnataka Court Vacates Interim Injunction on Film

A Karnataka Court vacated an ex-parte temporary injunction granted in favour of filmmaker SV Rajendra Singh Babu which restrained production house, Applebox Studios from using the title "Swathi Mutthina Male Haniye" in its upcoming film because, SV Rajendra Singh Babu claimed to have used as a song title in his movie Bannada Gejje. The court vacated the stay on the basis that the defendants had completed the film and was slated to release soon, whereas the plaintiff's film was still incomplete. Further, the court was of the opinion that the plaintiff had failed to make out a prima facie case.

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Supreme Court rules in favour of Media One in Madhyamam Broadcasting Ltd versus Union of India & Ors.

The Supreme Court of India overturned a decision made by the Kerala High Court and the Ministry of Information & Broadcasting (MIB), refusing to renew the broadcast licence of the Malayalam news channel Media One. The MIB had refused to renew the broadcast license of Media One on the ground that the Ministry of Home Affairs had declined to grant it security clearance while considering its request for renewal of license due to alleged links between the channel's promoters Madhyamam Broadcasting Limited (parent company of Media One) and Jamaat-e-Islami Hind.

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Celebrities and gaming companies get notices for 'misleading ads'

The Central Consumer Protection Authority (CCPA) took suo-moto cognizance and issued notifications to Lotus 365, a gaming company, for making false claims that their company was "India's most-trusted sports exchange since 2015".

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Comedian Moves Bombay High Court Against IT Rules Amendment.

In the case Kunal Kamra v. Union of India, stand-up comedian Kunal Kamra has approached the Bombay High Court challenging the new amendment to Information Technology Rules that empower the Central Government to identify 'Fake News' about itself on social media. Kunal Kamra has raised a challenge against Rule 3(i)(II)(A) of the Amendment, which modifies Rule 3(1)(v) of the 2021 Rules.

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Kerala High Court Stays District Court's Order Restraining Hombale Films From Using 'Varaharoopam' Song

Kerala High Court stayed an order passed by a local court which restrained the producers of the movie 'Kantara' from exhibiting the song 'Varaha Roopam' in the movie in theatres and streaming platforms.

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Upcoming film 'Adipurush' lands in trouble after accusations of plagiarism

The visual designer of the upcoming movie "Adipurush", starring Prabhas, has been accused of plagiarism by Mr. Pratik Sanghar, a visual artist, alleging that the movie's visual designer, TP Vijayan, copied his designs. Mr. Sanghar penned down his allegations on a Facebook post, where he stated that the concept artist working on Adipurush stole his artwork mix matched it with similar artwork and called it their own without informing him or providing him any compensation.

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Tamil Nadu Governor gives assent to Bill banning online gambling

The Governor of Tamil Nadu, RN Ravi, has approved the Prohibition of Online Gaming and Regulation of Online Games Bill, which was unanimously adopted by the state assembly on March 23, 2023. The Bill gained attention due to reports of multiple deaths in the state attributed to online gaming. The Tamil Nadu government has taken care to distinguish between online games and online gambling in their recent Bill, avoiding the issues that caused the previous attempt at regulation to fail. Other state governments have also passed similar Bills aimed at regulating online games and gambling, but many of these have been challenged in court.

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High Court dismisses PIL which alleged that movie 'Kurup' violated right to privacy

The Kerala High Court has rejected a public interest litigation (PIL) petition filed by and advocate against the film "Kurup," starring Dulquer Salmaan which was released in November 2021. The movie is based on the real life of Sukumara Kurup, a proclaimed offender and "India's longest wanted fugitive." The court observed that although the story of the movie is inspired from the life story of a proclaimed offender, it did not however indicate that the story is the complete life story of the person nor that the publication of the same would affect his right to privacy.

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Madras High Court issues an interim ban against Raghava Lawrence's 'Rudhran'

Revenza Global Ventures Private Limited had signed a contract with Five Star Creations, the producers of the movie "Rudhran" which was slated to release in theatres in April 2023. Vide this contract Revenza acquired the digital and satellite dubbing rights of the film in Hindi and other north Indian languages. However owing to some financial transactions, Five Star Creations terminated the said contract and demanded additional monies from Revenza, which led to Revenza approaching the court to order a stay on the release of the film. The judge, who heard the case, banned the release of the film 'Rudhran' till April 24.

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MIB advises OTT platforms to exercise self-restraint amidst growing concerns about vulgar content

In light of growing concerns among the general public about vulgar and obscene content streaming on OOT platforms, the MIB secretary Apurva Chandra emphasized the importance of the OTT industry being mindful of the country's culture while producing content. Chandra further stated that the government's soft approach regulations for the OTT industry have led to the creation of undesirable content. He stated that a National Broadcasting Policy has been under works since the broadcasting sector is now fragmented into several parts with differing interests and the various broadcasters like media broadcasters, OTTs, etc. have different mechanisms, regulations, and tariffs.

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EOW books hotel management for copyright violation

Upon a complaint made by Novex Communications Private Limited, the Mumbai Police's Economic Offences Wing (EOW) has booked several employees and top-level management of a prominent five-star hotel for playing a number of popular movie songs on its grounds between March 2021 and December 2022 without obtaining the necessary 'On Ground Performance' permission from Novex. Novex had previously issued legal notices to the hotel, despite which, the hotel continued playing the music without a license.

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Delhi High Court restrains rogue websites from illegally streaming content of several OTT platforms.

Justice Amit Bansal of the Delhi High Court has issued an order restraining 40 rogue websites from illegally streaming content belonging to entertainment companies like Netflix, Disney, and Universal City Studios. The court has directed internet and telecom service providers to ensure compliance with the order by blocking the rogue websites, URLs, and IP addresses.

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Delhi High Court restrains various YouTube Channels from publishing fake content on health of Aaradhya Bachchan

The Delhi High Court has prohibited several YouTube channels from sharing or publishing films or misleading information about Aaradhya Bachchan, the daughter of Bollywood actors Abhishek Bachchan and Aishwarya Rai Bachchan. The Court emphasized that broadcasting false information about a child's health, particularly their physical and mental well-being, is completely unacceptable under the law.

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Delhi High Court seeks Union Government's response on steps taken to regulate Content on Social-Media and OTT Platforms

The Delhi High Court has requested a response from the Union of India regarding their actions towards regulating content on social media and OTT platforms.

This request comes after a recent ruling by Justice Swarana Kanta Sharma, who emphasized the seriousness of the use of obscene language on public platforms that are accessible to children of all ages. The court urged the MIB to take steps for enforcing stricter application of its rules qua the intermediaries as notified in Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

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Delhi High Court Orders Social Media Platforms to Remove Leaked Clips of SRK's Film 'Jawan'

Delhi High Court granted a restraining order against unauthorized websites, cable TV providers, direct-to-home services, and other platforms, prohibiting them from violating the copyright of Shah Rukh Khan's movie, Jawan.

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Tariff Rules remain unchanged for OTTs, TV Apps

The Ministry of Information and Broadcasting (I&B) has informed the Telecom Regulatory Authority of India (TRAI) that tariff regulation is unnecessary for broadcast apps, including popular OTTs such as Netflix and Amazon Prime Video, as well as live TV channels carried on these platforms.

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Supreme Court of India is set to hear a plea regarding the protection of copyright for live-streamed court proceedings on YouTube

The Supreme Court is scheduled to hear a plea seeking direction for a special arrangement with YouTube for safeguarding the copyright of the court's live-streamed proceedings, according to a 2018 judgment.

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INTERNATIONAL

Drake faces copyright infringement suit

Ghanaian artist Obrafour has filed a copyright infringement lawsuit against rapper Drake, alleging that Drake's song "Calling My Name" used elements of Obrafour's 2003 single "Oye Ohene (Remix)" without permission.

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Triller to pay Sony Music \$4.5 million in music rights case

Triller, a TikTok competitor based in Los Angeles, has agreed to pay over \$4.5 million to Sony Music Entertainment to settle claims of breaching a 2016 content-distribution agreement.

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Egyptian lawyer sues Netflix over depiction of 'black' Cleopatra

A lawyer from Egypt has filed a lawsuit against Netflix over its new series "African Queens: Queen Cleopatra," which portrays the ancient ruler as a black African.

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Lil Yachty Settles Infringement Lawsuit Against NFT Seller Who Raised Millions Using His Name

Lil Yachty has settled a lawsuit with Opulous, a non-fungible token (NFT) seller, over allegations that the company used his name and likeness without his permission to raise over \$6.5 million in venture capital funds

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Universal Music asks streaming services to prohibit AI companies from accessing its songs.

Universal Music Group (UMG) is requesting that streaming services like Apple Music and Spotify stop artificial intelligence companies from using the label's copyrighted songs to "train" its machines. This action is the latest attempt by the music industry to push back against the technology.

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Jay Chou launches lawsuit against NetEase over rights infringement.

Chinese singer Jay Chou has filed a lawsuit against NetEase for rights infringement, which has sparked a debate on the Chinese social media platform Sina Weibo.

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