

# INTELLECTUAL PROPERTY AND SPORTS/ESPORTS

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### A SNEAK PEEK INSIDE THIS ISSUE:

*Apple and Swatch  
'Think Different'  
Dispute*

*Ohio State University  
wins legal battle to  
trademark the word  
'THE'*

The IP, Sports and Gaming Practice is comprised of a seasoned team of lawyers and support staff. Our services cover the full spectrum of intellectual property, sports and gaming laws, both contentious and non-contentious. These include dispute resolution at all tiers of the courts, intellectual property portfolio and asset management, anti-counterfeiting programmes, brand protection and naming rights, digital contents, licensing and sponsorship of sports ventures, events broadcasting, market entry strategies, and regulatory requirements for the gaming industry.



# INTELLECTUAL PROPERTY

## TRADEMARK

### APPLE AND SWATCH 'THINK DIFFERENT' DISPUTE

The European Union's Court of Justice on 8 June 2022 dismissed the actions brought by Apple Inc. in attempt to keep its 'THINK DIFFERENT' trademark. This allows any company in the region to use the iconic slogan. The basis of the Court's dismissal is premised on Apple's lack of genuine use of the trademark which has rendered the said EU trademark lapsed.

<https://curia.europa.eu/jcms/upload/docs/application/pdf/2022-06/cp220097en.pdf>



### AUDI FILES LAWSUIT AGAINST CHINESE EV MAKER NIO OVER TRADEMARK RIGHTS

Volkswagen's Audi has filed a lawsuit in a Munich court against Chinese electric vehicle maker Nio over an alleged infringement of Audi's trademark rights. According to Audi, Nio's decision to name two of its models ES6 and ES8 infringes Audi's trademark for its own model designations S6 and S8.

<https://finance.yahoo.com/news/audi-files-lawsuit-against-chinese-102941655.html>

# INTELLECTUAL PROPERTY

## TRADEMARK



### **£2.35M COURT BATTLE OVER CLAIMS TESCO RIPPED OFF LIDL'S-TRADEMARKED LOGO TO PROMOTE CLUBCARD DISCOUNTS**

Supermarket rivals Tesco and Lidl are set to spend £2.35m fighting each other in court over claims Tesco ripped off the German budget retailer's trademarked logo – a blue square containing a yellow circle with a thin red border - to promote its highly popular Clubcard discounts

<https://www.dailymail.co.uk/news/article-10912111/Lidl-Tesco-set-face-2-35m-court-battle-alleged-trademark-infringement.html>

### **CROCS ACCUSES DAISO OF SELLING KNOCK-OFFS CLASSIC CLOGS**

Croc Inc. filed a trademark infringement lawsuit against the popular Japan-based dollar store in a Californian District Court on 15 June 2022, for producing and selling knock-off versions of its classic clog silhouette. This filing marks the latest attempt for Crocs to curb clog copycats, following a slate of suits brought against another 21 companies including Walmart Inc. and Loeffler Randall Inc. for allegedly infringing Croc's classic rubber clog trademarks.

<https://www.yahoo.com/lifestyle/crocs-accuses-daiso-selling-knock-161339074.html>

### **HAILEY BIEBER SUED FOR TRADEMARK INFRINGEMENT AFTER LAUNCHING SKINCARE LINE**

The model who launched her Rhode skincare line earlier this June is being sued for trademark infringement by a 9-year-old fashion company of the same name. The clothing label is asking the court to block Bieber from using the Rhode name to avoid any confusion between their brands, especially since people have mistakenly tagged Bieber's @rhode Instagram instead of the clothing brand's official @shoprhode account when sharing photos of celebrities wearing their clothing line.

<https://news.yahoo.com/hailey-bieber-sued-trademark-infringement-034324724.html>

## INTELLECTUAL PROPERTY

### TRADEMARK

#### **AMAZON AND CARTIER SLAPS CHINESE SOCIAL MEDIA INFLUENCER AND 8 OTHERS WITH LAWSUITS OVER TRADEMARK INFRINGEMENT AND FALSE ADVERTISING**

E-commerce giant Amazon and luxury goods maker Cartier have jointly sued a Chinese group comprising of a Chinese social media influencer and eight businesses operating on the mainland for advertising, promoting and selling counterfeit Cartier jewellery that infringed the French firm's registered trademarks and violated the US shopping site's policies.

<https://www.scmp.com/tech/big-tech/article/3181962/amazon-cartier-slap-chinese-social-media-influencer-8-others-lawsuits>



#### **DELHI HIGH COURT DIRECTS GOOGLE TO REMOVE 'PUMA GUARD' APP FROM PLAY STORE IN PUMA TRADEMARK INFRINGEMENT SUIT**

The Delhi High Court has directed Google LLC to remove the application 'PUMA GUARD' from its Google Play Store while dealing with a trademark infringement suit filed by PUMA, one of the world's leading sports brand designing, developing, selling and marketing footwear, apparel and accessories.

<https://www.livelaw.in/news-updates/delhi-high-court-puma-guard-trademark-infringement-suit-puma-200115>

# INTELLECTUAL PROPERTY

## PATENT



### PFIZER SUED FOR PATENT INFRINGEMENT OVER COVID-19 DRUG PAXLOVID

Pfizer Inc. faces a lawsuit over its blockbuster Covid-19 treatment Paxlovid from Enanta Pharmaceuticals Inc. for allegedly violating the latter's developing Covid-19 drug patented since July 2020. The lawsuit has been filed on 21 June 2022 in the United States District Court for the District of Massachusetts.

<https://www.reuters.com/legal/government/pfizer-sued-patent-infringement-over-covid-19-drug-paxlovid-2022-06-21/>

### USPTO ISSUES PATENT COVERING USE OF XPRO™ FOR TREATMENT OF CNS DISEASES

United States Patent and Trademark Office (USPTO) has granted patent to InMune Bio Inc. for its "METHODS OF TREATING NEUROLOGICAL DISEASES", which is for the use of Dominant Negative Tumor Necrosis Factor variants, such as the Company's XPro™, by peripheral administration for crossing the blood-brain barrier and treating diseases of the Central Nervous System.

<https://finance.yahoo.com/news/uspto-issues-patent-covering-xpro-120000220.html>

MORE NEWS, UPDATES,  
HOT TOPICS

COPYRIGHT - PG 7  
SPORTS/ESPORTS -PG  
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## INTELLECTUAL PROPERTY

### PATENT

#### **CULT FOOD FILES THIRD PATENT APPLICATION TO HELP ADDRESS THE GLOBAL FOOD INSECURITY CRISIS VIA CELLULAR AGRICULTURE**

The innovative investment platform has announced the filing of its third provisional patent application on 17 June 2022, regarding the innovative production of cultured meats which are enriched with cholesterol-lowering additives or supplements.

<https://finance.yahoo.com/news/cult-food-science-files-third-110000440.html>



#### **DU PONT SUES HUTCHINSON ON FIRE-BLOCKING MATERIAL SOLD TO AIRBUS**

Du Pont de Nemours Inc. alleges that the France-based Hutchinson SA which has supplied Airbus thermal acoustic blankets has infringed two of its patents that cover composite flame barrier laminate for a thermal and acoustic insulation blanket. The filing has been filed in the US District Court for the District of Delaware.

<https://news.bloomberglaw.com/us-law-week/dupont-sues-hutchinson-on-fire-blocking-material-sold-to-airbus>

# INTELLECTUAL PROPERTY

## PATENT

### OHIO STATE UNIVERSITY WINS LEGAL BATTLE TO TRADEMARK THE WORD 'THE'

Ohio State University or rather, The Ohio State University has officially won trademark rights to one of the most common words in the English Language: "THE". The United States Patent and Trademark Office (USPTO) approved the university's request to use "THE" by itself on all apparel available "through channels customary to the field of sports and collegiate athletics."

<https://www.dailymail.co.uk/news/article-10943373/Ohio-State-University-wins-legal-battle-trademark-word-THE.html>



### PATENT PROSECUTION HIGHWAY PROGRAM WITH EUROPEAN PATENT OFFICE TO CONTINUE

Following the success of the pilot phase, IP Australia and the European Patent Office (EPO) on 20 June 2022 announced that they have agreed to continue the Patent Prosecution Highway (PPH) program. The PPH program covers both Patent Cooperation Treaty and Paris Route applications, which enable fast -tracked examination of patents application filed by Australian applicants.

<https://www.ipaustralia.gov.au/about-us/news-and-community/news/patent-prosecution-highway-program-european-patent-office-continue>

# INTELLECTUAL PROPERTY

## COPYRIGHT



### **PINTEREST PREVAILS IN PHOTOGRAPHY COPYRIGHT DISPUTE**

New Jersey Photographer Harold Davis sued Pinterest in the United States District Court for the Northern District of California on November 2019 for displaying 51 of his photographs in the form of “promoted pins” alongside advertisements without his permission on its site. The federal judge recently ruled in favour of Pinterest as Davis was unable to show how Pinterest or its content algorithms directly profited from his works.

<https://petapixel.com/2022/05/26/photographer-loses-copyright-infringement-lawsuit-against-pinterest/>

### **COPYRIGHT INFRINGEMENT IS A COGNIZABLE & NON BAILABLE OFFENCE UNDER SECTION 63 OF THE INDIAN COPYRIGHT ACT 1957**

The Supreme Court in India recently held that the offence of copyright infringement under Section 63 of the Copyright Act is a cognizable and nonbailable offence. The Court noted that the maximum punishment which can be imposed under Section 63 would be three years and therefore, the Magistrate may also sentence the accused for a period of three years.

<https://www.livelaw.in/top-stories/supreme-court-copyright-infringement-section-63-cognizable-knit-pro-international-vs-state-of-nct-of-delhi-2022-livelaw-sc-505-199775>

### **EXECUTIVE CANNOT EXEMPT USE OF COPYRIGHTED SOUND RECORDINGS IN MARRIAGE FUNCTIONS, "FAIR USE" TO BE DECIDED ON THE FACTS OF EACH CASE**

The Punjab and Haryana High Court held that the Indian government has no authority under Copyright Act 1957 to clarify or interpret the applicability of the law through public notices. The Court also held that the concerned public notice issued by the Indian government interpreting the Section 52(1)(za) of the Copyright Act 1957 has violated the doctrine of separation of power, and has infringed the right of a copyright holder under Articles 13, 14 and Article 19(1) (g) of the Constitution of India

<https://www.livelaw.in/news-updates/punjab-and-haryana-high-court-fair-use-of-copyrighted-sound-recording-executive-cannot-exempt-use-200044>

## INTELLECTUAL PROPERTY

### COPYRIGHT

#### TOP GUN MAVERICK: PARAMOUNT SUED FOR COPYRIGHT INFRINGEMENT BY HEIRS OF WRITER WHO INSPIRED FILM

Paramount Pictures has been sued for copyright infringement over its latest blockbuster hit “Top Gun: Maverick”. The lawsuit was filed on 6 June 2022 to the California federal court, by the heirs of the author Ehud Yonay who published a story titled “Top Guns” in 1983 on which the original film was based. The Yonays assert that the movie was unfinished until 8 May 2021 which is a year after the expiration date of the story’s rights, whereas Paramount maintains that the sequel was sufficiently completed before the termination date.

<https://www.independent.co.uk/arts-entertainment/films/news/top-gun-maverick-copyright-infringement-b2095174.html>



#### BOMBAY HIGH COURT DIRECTS REMOVAL OF PIRATED LINKS OF “JANHIT MEIN JAARI” FILM PRODUCED BY BHANUSHALI STUDIOS

The Bombay High Court has granted film production Bhanushali Studios Ltd. a John Doe order directing police assistance in removing all links or pirated copies of the movie “Janhit Mein Jaari” . The film was released worldwide including India on 10 June 2022. One day after the release of the film, the production studio discovered that the links of the movie were available on chat groups on Telegram, which were subsequently deactivated after a complaint to the BKC police was made.

<https://www.livelaw.in/news-updates/bombay-high-court-janhit-mein-jaari-john-doe-order-copyright-infringement-202030>

# INTELLECTUAL PROPERTY

## COPYRIGHT

### TURKEY TO FOLLOW EUROPE ON COPYRIGHT DEAL WITH GOOGLE

Following Google's recent announcement of its agreement to pay over 300 publishers in Europe for their news in its latest effort to comply with the recently introduced European Union copyright law, the Turkish Parliament's Digital Media Commission has also invited Google representatives to discuss on digital copyright matters in hopes of striking a similar deal.

<https://www.dailysabah.com/business/tech/turkey-to-follow-europe-on-copyright-deal-with-google>



### DISNEY COPYRIGHTS TARGETED IN BILL PROPOSED BY SEN. JOSH HAWLEY

The Republican lawmaker, Sen. Josh Hawley (R-Mo.) recently proposed legislation that limits copyright protection to 56 years. According to the Copyright Clause Restoration Act of 2022, the law would retroactively apply to existing copyrights. The move follows Florida lawmakers last month stripping Disney of special privileges of self-government that allowed it to independently oversee its sprawling theme park area.

<https://www.hollywoodreporter.com/business/business-news/disney-copyrights-targeted-in-bill-proposed-by-sen-josh-hawley-1235144054/>

# INTELLECTUAL PROPERTY

## OTHER



### VIETNAM'S AMENDED INTELLECTUAL PROPERTY (IP) LAW WAS PASSED

On 16 June 2022, Vietnam amended IP law was passed by the National Assembly with 95.58% approval. Despite the unavailability of the final version of the law, it is set to take effect from 1 January 2023.

<https://www.lexology.com/library/detail.aspx?g=a18a248b-6afc-4940-af3a-7f9b2479821a>

## SPORTS/ESPORTS

### GAMING PLATFORM WINZO FILES LAWSUIT AGAINST RIVAL MPL

WinZo, India's gaming platform, is suing its rival, Mobile Premier League (MPL) over alleged copyright violation, claiming that the latter copied its patented game, "World War", through the use of an identical game format.

<https://timesofindia.indiatimes.com/gadgets-news/gaming-platform-winzo-files-lawsuit-against-rival-mpl/articleshow/92010055.cms>



### ACTIVISION BLIZZARD OWED UP TO US\$420M BY OVERWATCH AND CALL OF DUTY ESPORTS TEAMS

After suspending payments in 2020 due to the pandemic, video game publisher Activision Blizzard is now owed a large sum of money in franchise payments from competing esports teams. These payments were initially deferred to 2022 but there are now talks of a possible further deferment to 2024.

<https://www.sportspromedia.com/news/activision-blizzard-overwatch-call-of-duty-league-franchise-payments-esports/>

## SPORTS/ESPORTS

### **DESTINY 2 CHEAT CREATORS COME TO A \$13.5 MILLION SETTLEMENT WITH BUNGIE**

In relation to the lawsuit filed in 2021 by video game company Bungie against alleged gaming cheats manufacturers, a settlement has been reached that requires the latter's payment of roughly \$13.5 million in damages.

<https://www.theverge.com/2022/6/17/23172558/destiny-2-bungie-cheat-settlement>



### **LEAGUE OF LEGENDS DEVELOPER SUING MOBILE LEGENDS FOR PLAGIARISM AND COPYRIGHT INFRINGEMENT**

Riot Games, makers of League of Legends, is suing ByteDance's Shanghai Moonton Technology Co. Ltd. , the developer behind MOBA Mobile Legends for copyright. The lawsuit, which was filed by Riot's parent company Tencent, reads: "This action seeks to stop Moonton from continuing its deliberate and sustained campaign to free ride on Riot's highly valuable rights in the mobile video game League of Legends: Wild Rift and related content." The company goes on to call Moonton's strategy "blatant copying".

<https://www.gamerbraves.com/riot-games-is-suing-mobile-legends-developer-for-plagiarism-and-copyright-infringement/>

# PREVIOUS PUBLICATIONS

Of Source Codes and Functions - Balancing Copyright Protection Against Monopolisation

'Willing to Wound but Afraid to Strike' - Threats in Trademark Infringement Proceedings

Competing Rights to Copyright in the Virtual Environment

Spilling the Beans in Litigation

The Price of Artificial Intelligence

State of Mind and the Plea of Innocence

False Sense of Security

Privileges of 'Well-Known' Trademarks

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10 Key Amendments to Patent Law

Copyright (Amendment) Act 2022

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