

# INTELLECTUAL PROPERTY, SPORTS AND GAMING

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**LH**  
ADVOCATES  
AND SOLICITORS  
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### A SNEAK PEEK INSIDE THIS ISSUE:

*Meta hit with trademark  
lawsuit by virtual-reality  
company MetaX*

*Boy Scouts of America and  
Girl Scouts settled dispute  
over right to use the word  
"scouting"*

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

### **LUXURY SHOEMAKER MANOLO BLAHNIK WINS 22-YEAR TRADEMARK BATTLE IN CHINA**

British shoe brand Manolo Blahnik (named after its Spanish founder) announced on 19 July 2022 that the company has won a legal battle in China to use its own name. The long-running legal battle started in 2000, whereby the company had taken numerous actions against Chinese businessman, Fang Yuzhou, who first filed trademarks related to the “Manolo Blahnik” name in 1999 in China.

<https://www.theguardian.com/fashion/2022/jul/20/manolo-blahnik-wins-decades-long-trademark-battle-in-china>



### **ZAC EFRON AND NETFLIX HIT WITH TRADEMARK SUIT OVER “DOWN TO EARTH”**

Zac Efron and Netflix were sued over reality series “Down to Earth” by a wellness company with the same name. The wellness company has filed its complaint in the Manhattan Federal Court on 22 July 2022, claiming that the show tarnished its brand with inaccurate and “potentially fraudulent” health claims.

<https://www.reuters.com/legal/litigation/netflix-efron-hit-with-trademark-suit-over-down-earth-2022-07-22/>

# INTELLECTUAL PROPERTY

## TRADEMARK



### **HAILEY BIEBER SCORES A LEGAL VICTORY IN RHODE SKINCARE TRADEMARK CASE**

On 22 July 2022, a federal judge in New York made a ruling in Hailey Bieber's favour over a trademark infringement claim that the New York-based clothing and lifestyle company Rhode (styled RHODE) had filed in June 2022 against the model over her new skincare brand, also named Rhode. The judge denied the clothing company's motion for a preliminary injunction without prejudice.

<https://www.eonline.com/news/1339221/hailey-bieber-scores-a-legal-victory-in-rhode-skincare-trademark-case>

### **META HIT WITH TRADEMARK LAWSUIT BY VIRTUAL-REALITY COMPANY METAX**

Facebook owner Meta Platforms was hit with a trademark lawsuit in the Manhattan federal court on 19 July 2022 by MetaX LLC, a New York-based company that creates immersive virtual-reality experiences, for allegedly stealing its name for its pivot to the metaverse. MetaX has alleged that Meta Platforms has infringed its federal "Meta" trademarks and as result of the infringement it had been "crushed" by Facebook's rebrand and its "ability to operate as Meta has been eviscerated".

<https://www.channelnewsasia.com/business/meta-hit-trademark-lawsuit-virtual-reality-company-metax-2821671>

### **BOY SCOUTS OF AMERICA AND GIRL SCOUTS SETTLED DISPUTE OVER RIGHT TO USE THE WORD "SCOUTING"**

The Boy Scouts of America and Girl Scouts have settled their dispute over the Boy Scouts' right to use the word "scouting" to advertise co-ed programs on 22 July 2022. In 2018, the Girl Scouts sued the Boy Scouts for the use of "Scouts" and "Scouting" in the latter's ad campaign called "Scout Me In". The settlement marks the end of the Girl Scouts' lawsuit that the Boy Scouts had characterized as a "ground war" to counter its entry into girls' scouting.

<https://www.reuters.com/legal/litigation/boy-scouts-america-girl-scouts-settle-trademark-dispute-over-co-ed-scouting-2022-07-23/>

# INTELLECTUAL PROPERTY

## TRADEMARK

### **NINTENDO REGISTER NEW “DONKEY KONG” TRADEMARK AS GAME RUMOURS RETURN**

Nintendo has registered a new trademark for Donkey Kong, not just a routine extension of an existing trademark but a new trademark that specifically mentions ‘downloadable programs for portable and electronic consoles’. This suggest the rumours of Nintendo plans to launch a new Donkey Kong game may be true.

<https://metro.co.uk/2022/07/04/nintendo-register-new-donkey-kong-trademark-as-game-rumours-return-16940601/>



### **REDBUBBLE ORDERED TO PAY HELLS ANGELS \$78,000 FOR SELLING ITEMS BEARING ITS TRADEMARKED LOGO**

The Australian Federal Court has ordered the global online marketplace Redbubble to pay more than AUD\$78,000 in damages to the Hells Angels Motorcycle Club for breaching its trademark. The decision is the second ruling against the retailer in the past three years after it was penalised \$5,000 for selling items marked with the Hells Angels symbol in 2019.

<https://www.abc.net.au/news/2022-07-20/redbubble-ordered-to-pay-hells-angels/101254418>

# INTELLECTUAL PROPERTY

## PATENT



### U.S. SUPREME COURT REJECTS AMERICAN AXLE CASE ON PATENT ELIGIBILITY

The U.S. Supreme Court on 29 June 2022 declined to hear American Axle & Manufacturing Inc's appeal of a lower court ruling that invalidated the Detroit-based company's patent on technology for quieting driveshaft noise in a legal fight with Neapco Holdings.

<https://finance.yahoo.com/news/u-supreme-court-rejects-american-145512347.html>

### FDA AND U.S. PATENT OFFICE TEAM UP ON PATENT REFORM TO PROMOTE COMPETITION AND LOWER DRUG PRICES

On 6 July 2022, the U.S. Patent and Trademark Office ("USPTO") on its blog announced its plan to collaborate with the Food and Drug Administration ("FDA") to crack down on patenting of "incremental, obvious changes to existing drugs that do not qualify" for new protections. The initiative follows President Joe Biden's 2021 executive order asking the agencies to leverage their collective experience in promoting "innovation, competition, and the approval and regulation of safe and effective drugs."

<https://www.uspto.gov/blog/director/entry/the-biden-administration-is-acting>

MORE NEWS, UPDATES,  
HOT TOPICS

COPYRIGHT - PG 7  
SPORTS & GAMING -  
PG 11

## INTELLECTUAL PROPERTY

### PATENT

#### GERMAN COURT RULES THAT GILEAD'S SOFOSBUVIR INFRINGES NUCANA'S '190 PATENT

The Regional Court of Dusseldorf issued a judgement on 7 July 2022 that Gilead Sciences UC and Gilead Sciences GmbH (collectively, "Gilead") infringed NuCana Plc's composition of matter claims in European Patent 2955190 ("190 patent") through their sales of Sovaldi®, Harvoni®, Vosevi® and Epclusa® in Germany. The decision of the Dusseldorf Court applies only to Germany and Gilead may appeal the decision.

<https://finance.yahoo.com/news/german-court-rules-gilead-sofosbuvir-120000784.html>



#### LIQUIDIA RECEIVES FAVORABLE RULING IN INTER PARTES REVIEW AGAINST UNITED THERAPEUTICS PATENT

Liquidia Corporation announced on 20 July 2022 that the U.S. Patent Trial and Appeal Board ("PTAB") ruled in its favor in the Inter Partes Review proceeding against a patent owned by United Therapeutics Corporation and listed in the Orange Book for Tyvaso® (treprostinil inhalation solution). In its ruling, the PTAB found that, based on the preponderance of the evidence, all the claims of the concerned patent have been shown to be unpatentable.

<https://finance.yahoo.com/news/liquidia-receives-favorable-ruling-inter-203000708.html>

## INTELLECTUAL PROPERTY

### PATENT

#### NOKIA PREVAILS AGAINST OPPO AS GERMAN COURT RULES SEP INFRINGEMENT

Nokia has landed success at the Mannheim Regional Court in its series of lawsuits against Oppo, in which the present case is the first ruling regarding the standard essential patents (“SEPs”) which cover 4G and 5G technology. The 2nd Civil Chamber ruled that Nokia's disputed standard essential patents has been infringed by the Chinese mobile manufacturer, as a result prohibiting Oppo from selling its products in Germany.

<https://www.juve-patent.com/news-and-stories/cases/nokia-prevails-against-oppo-as-court-rules-on-sep-infringement/>



# INTELLECTUAL PROPERTY

## COPYRIGHT



### ARTIST BEHIND BANANA TAPED TO WALL CAN'T ESCAPE COPYRIGHT SUIT.

The artist behind a viral sculpture featuring a banana taped to a wall at the 2019 Art Basel fair in Miami was unable to immediately shake a lawsuit claiming he copied the artwork from another artist. The idea of a banana duct-taped to a wall is uncopyrightable, but the specific “selection, coordination, and arrangement” of the various elements of the sculpture can receive a degree of protection, Judge Robert N. Scola Jr. said in his Wednesday opinion.

<https://news.bloomberglaw.com/ip-law/artist-behind-banana-taped-to-wall-cant-escape-copyright-suit>

### CANADA EXTENDS COPYRIGHT PROTECTION FROM 50 YEARS TO 70 YEARS AFTER AN AUTHOR'S DEATH.

Canada increased the general term of copyright protection from 50 years to 70 years after the author's death under the terms of the Canada-United States-Mexico Agreement (“CUSMA”), which came into effect on July 1, 2020. With the extension, Canada now shares the same protection period as important trading partners including the U.S. and the E.U.

<https://www.digitalmusicnews.com/2022/07/10/canada-extends-copyright-definition/>

## INTELLECTUAL PROPERTY

### COPYRIGHT

#### SONGWriters, PUBLISHERS WIN A LANDMARK 43.8% ROYALTY INCREASE FROM STREAMING MUSIC PLATFORMS.

The United States Copyright Royalty Board (“CRB”) announced late on 1 July 2022, that streaming music services like Spotify, Apple Music, YouTube Music, and Amazon Music Unlimited will be required to pay music publishers and composers in the United States significantly more. In particular, the determination entails a 43.8 percent increase in pre-2018 mechanical royalty rate requirements and covers the period from 2018 to 2022.

<https://www.digitalmusicnews.com/2022/07/02/songwriters-publishers-crb-streaming-royalty/>



#### IMELDA MARCOS' 93RD BIRTHDAY PHOTOGRAPH SPARKS CONTROVERSY OVER COPYRIGHT CONCERNS.

A photograph of Philippines President Ferdinand "Bongbong" Marcos Jr's mother was used in an advertisement campaign for her 93rd birthday. The company who used the image belonging to Lauren Greenfield, the director of the documentary film Kingmaker, immediately took down the greeting down when it was brought to their attention.

<https://www.thenationalnews.com/arts-culture/film/2022/07/03/image-of-imelda-marcos-on-her-93rd-birthday-causes-stir-amid-copyright-claims/>

# INTELLECTUAL PROPERTY

## COPYRIGHT

### OTTAWA FEDERAL GOVERNMENT URGED TO ACT AGAINST COPYRIGHT VIOLATIONS AND FAKE INDIGENOUS ART.

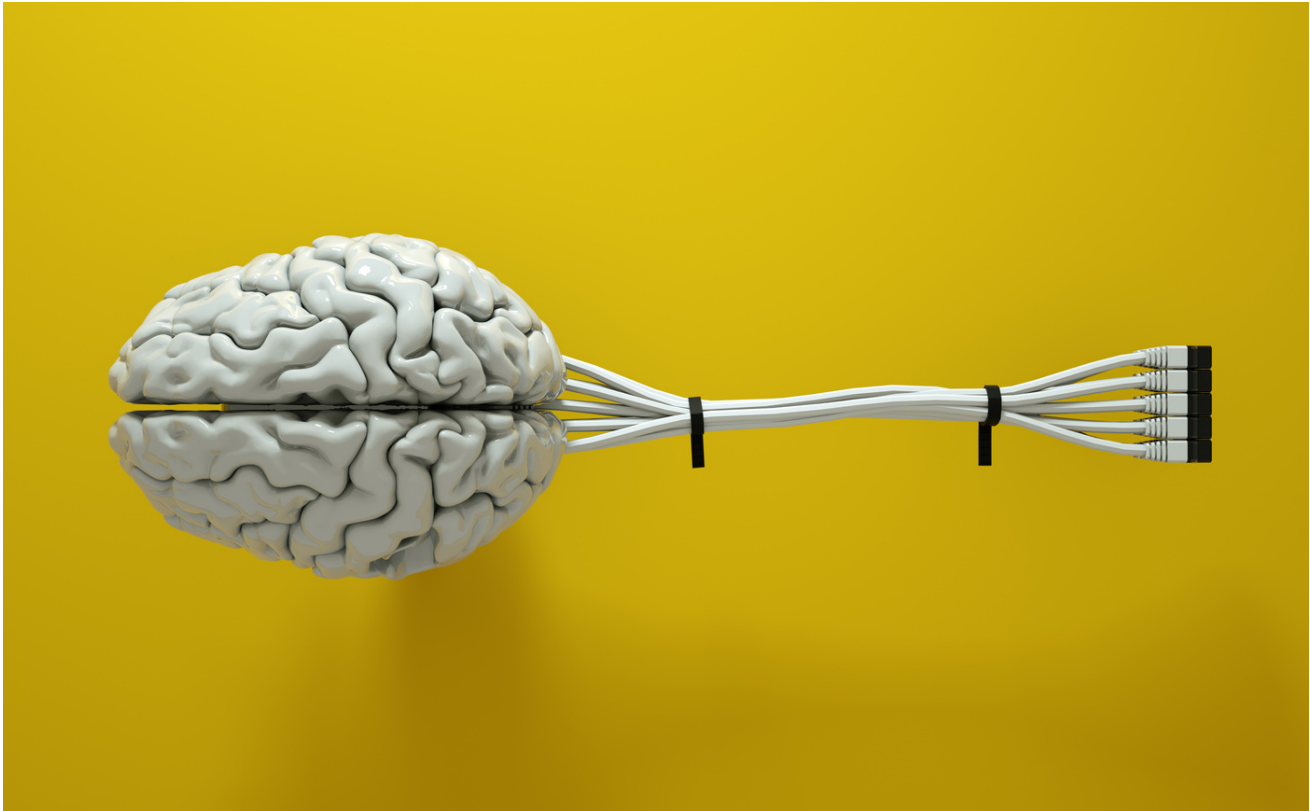
The Ottawa federal government has been called to take action on fake and commercial indigenous art knockoffs produced in Asia and eastern Europe, which Indigenous artists claim are robbing them of revenue. These include a copyright law reform, a unit to help Indigenous artists track down fakes, and stronger border checks for art in Indigenous styles.

<https://www.ctvnews.ca/mobile/politics/feds-urged-to-crack-down-on-fake-indigenous-art-copyright-breaches-1.5977748>



# INTELLECTUAL PROPERTY

## OTHER



### U.K. PLANS TO AMEND IP LAWS CONCERNING ARTIFICIAL INTELLIGENCE

On 28 June 2022, the U.K. Intellectual Property Office (“UKIPO”) in its press release announced its plans to amend copyright law to make it easier to analyse material for the purposes of machine learning, research and innovation. The UKIPO also decided that artificial intelligence algorithms that come up with new technologies will not be able to patent their inventions.

<https://www.gov.uk/government/news/artificial-intelligence-and-ip-copyright-and-patents>

## SPORTS & GAMING

### CHINA CHANGES LAW IN THE FIGHT AGAINST INSULTS AT SPORTS EVENTS

China has passed amendment to the Law on Physical Culture and Sports that would authorise counteractions to any insult deemed as undermining the nation's sovereignty, security, development interests or dignity in international sports events.

[https://sc.mp/93h1?utm\\_source=copy\\_link&utm\\_medium=share\\_widget&utm\\_campaign=3183190](https://sc.mp/93h1?utm_source=copy_link&utm_medium=share_widget&utm_campaign=3183190)



### EUROPEAN COURT OF JUSTICE OPENS HEARING OVER ALLEGED ABUSE OF UEFA'S DOMINANT POSITION

Following the collapse of European Super League, the three clubs who have refused to cancel the project – Real Madrid, Barcelona and Juventus – are challenging UEFA and FIFA's legal authority to block or otherwise impair the institution of a competing league.

<https://malaysia.news.yahoo.com/european-court-opens-hearing-whether-154219604.html>

## SPORTS & GAMING

### **FOLLOWING DOPING SCANDAL, FIGURE SKATING RAISES MINIMUM COMPETITION AGE TO 17**

The International Skating Union (ISU) voted to increase the minimum age for elite skaters from 15 to 17. The change will be phased in progressively and be in place in time for the Winter Olympics in 2026.

<https://www.japantimes.co.jp/sports/2022/06/08/figure-skating/isu-raises-age-valieva/>



### **CAMEROON FOOTBALL FEDERATION ORDERED TO PAY COMPENSATION TO SACKED COACH**

Cameroon Football Federation have been ordered to pay former coach Toni Conceicao compensation of 1.6 million euros after dismissing him following their third-place win at this year's Africa Cup of Nations finals, FIFA's Football Tribunal has ruled.

<https://www.thestar.com.my/sport/football/2022/07/22/soccer-cameroon-ordered-to-pay-compensation-to-sacked-coach>

## SPORTS & GAMING

### QUEENSLAND SUPREME COURT PROVIDED IMPORTANT GUIDANCE ON DUTIES OF ORGANISER OF SPORTING ACTIVITY

In the recent case of **Sally James v USM Events Pty Ltd [2022] QSC 63**, the Supreme Court of Queensland has delivered useful guidance to ascertain when an 'organiser' of a sporting activity has fallen below their standard of care, or whether the injury complained of fell within the inevitable dangers that came with playing the sport.

<https://www.mondaq.com/australia/sport/1213902/sports-law-update-sally-james-v-usm-events-pty-ltd-2022-qsc-63>

### KARNATAKA HIGH COURT STRIKES DOWN LAW AGAINST ONLINE GAMING

The High Court of Karnataka found certain provisions of the Karnataka Police (Amendment) Act 2021, which banned and criminalised online gaming activities, by risking money or otherwise, to be ultra vires of the Constitution of India. These games are rummy, carom, chess, pool, bridge, crosswords, scrabble and fantasy sports such as crickets.

<https://www.thehindu.com/news/national/karnataka/hc-strikes-down-law-banning-online-gaming/article65049942.ece>



## PREVIOUS PUBLICATIONS

Of Source Codes and Functions - Balancing Copyright Protection Against Monopolisation	Intellectual Property, Sports & Gaming Newsletter Vol. 1
'Willing to Wound but Afraid to Strike' - Threats in Trademark Infringement Proceedings	Intellectual Property, Sports & Gaming Newsletter Vol. 2
Competing Rights to Copyright in the Virtual Environment	Intellectual Property, Sports & Gaming Newsletter Vol. 3
Spilling the Beans in Litigation	Intellectual Property, Sports & Gaming Newsletter Vol. 4
The Price of Artificial Intelligence	Intellectual Property, Sports & Gaming Newsletter Vol. 5
State of Mind and the Plea of Innocence	Intellectual Property, Sports & Gaming Newsletter Vol. 6
False Sense of Security	Intellectual Property, Sports & Gaming Newsletter Vol. 7
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