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INTELLECTUAL PROPERTY

TRADEMARK

SOCIAL MEDIA STAR FACES TRADEMARK SETBACK AS SOMEONE ELSE FILES FOR HER VIRAL CATCHPHRASE

Jools Lebron, the creator behind the viral “very demure, very mindful” trend, recently expressed her distress over losing the opportunity to trademark her popular catchphrase. Despite its widespread use by brands and celebrities, including Netflix and Jennifer Lopez, someone else has filed for the trademark. In a tearful video, Lebron lamented not securing the rights sooner, highlighting the importance of timely legal protection in safeguarding intellectual property, especially for influencers and content creators looking to monetise their brand. This serves as a crucial reminder of the legal intricacies involved in the rapidly evolving social media landscape.

<https://www.thestar.com.my/tech/tech-news/2024/08/26/creator-of-very-demure-very-mindful-trend-tearfully-laments-someone-else-filing-for-trademark>



AVIATOR LLC SECURES \$330 MILLION WIN IN TRADEMARK AND COPYRIGHT INFRINGEMENT CASE AGAINST GAMING GIANTS

Aviator LLC achieved a significant legal victory, securing \$330 million in damages following a Georgian court's ruling against gaming companies Spribe OÜ and Adjarabet, a subsidiary of Flutter Entertainment. The court found that the defendants engaged in trademark and copyright infringement by using Aviator LLC's protected image and brand name in their gaming offerings. The ruling not only invalidated Spribe OÜ's trademarks, registered in bad faith, but also highlighted the crucial need for companies to safeguard their intellectual property rights internationally, especially in highly competitive industries like online gaming.

<https://www.businesswire.com/news/home/20240826080003/en/Aviator-LLC-Wins-330-Million-Trademark-and-Copyright-Claim-against-Gaming-Operators-Spribe-O%C3%9C-and-Adjarabet>

INTELLECTUAL PROPERTY

TRADEMARK

PUNE'S LOCAL BURGER KING PREVAILS IN TRADEMARK DISPUTE WITH GLOBAL GIANT

After a protracted 13-year legal battle, Pune's homegrown 'Burger King' eatery has emerged victorious against the global fast-food chain Burger King Corporation. The commercial court in Pune ruled in favour of the local establishment, rejecting the US company's claims of trademark infringement. The court found that the Pune-based eatery had been using the 'Burger King' name since 1991-92, well before the global giant entered the Indian market in 2014. The ruling emphasised that Burger King Corporation failed to prove any customer confusion or damage to its business, thereby dismissing the demand for a permanent injunction and damages. This outcome underscores the importance of establishing trademark rights based on local market presence and historical usage.

However, just days after the decision, the Bombay High Court recently stayed the trial court's decision, reinstating the injunction against the Pune-based eatery's use of the 'Burger King' name until the next hearing on September 6. This development reflects the ongoing complexity of trademark disputes, particularly in cases where historical usage and global brand recognition collide.

<https://www.thehindu.com/news/national/maharashtra/punes-burger-king-wins-decade-old-trademark-battle-against-global-giant/article68539558.ece>

<https://www.thehindu.com/business/us-based-burger-king-corporation-moves-the-bombay-high-court-against-pune-based-joint-in-trademark-infringement-suit/article68568176.ece>



SHEIN ACCUSES TEMU OF DESIGN THEFT AND TRADEMARK INFRINGEMENT AMID ONGOING LEGAL BATTLE

Chinese retail giant, Shein, has filed a lawsuit against its fast-fashion rival, Temu, alleging design theft, counterfeiting, and trademark infringement. The complaint accuses Temu of encouraging sellers to copy Shein's designs and using deceptive tactics to lure customers away. Temu has responded by dismissing the accusations as hypocritical, pointing out that Shein faces similar legal challenges from other brands and artists. This lawsuit intensifies the ongoing legal rivalry between the two companies, both vying for dominance in the highly competitive fast-fashion market.

<https://finance.yahoo.com/news/temu-slams-shein-lawsuit-alleging-180927287.html>

INTELLECTUAL PROPERTY

TRADEMARK

CRAYOLA SECURES TRADEMARK FOR ICONIC CRAYON SCENT, AIMING TO LEVERAGE NOSTALGIA IN RETAIL STRATEGY

In a remarkable move that underscores the power of sensory branding, Crayola has successfully trademarked the distinctive smell of its crayons—a scent described in trademark documents as “slightly earthy soap with pungent, leather-like clay undertones.” This achievement, granted by the US Patent and Trademark Office in July, marks a significant milestone for the arts and crafts giant, known for evoking childhood memories through its iconic waxy aroma.

Crayola, a subsidiary of Hallmark, first pursued the trademark in 2018 but faced initial rejection. Undeterred, the company presented compelling evidence, including comparisons with competitors’ products, to demonstrate the uniqueness of its crayon scent. The successful appeal not only solidifies Crayola’s brand identity but also opens up new marketing avenues.

Pete Ruggiero, Crayola’s chief executive, envisions infusing this nostalgic scent into retail environments, particularly during the back-to-school season, which accounts for nearly half of the company’s annual sales. Crayola aims to create an immersive shopping experience that taps into the emotional connection between smell and childhood memories, thereby encouraging more purchases.

Crayola’s strategic use of its trademarked scent could further solidify its dominance in the US coloring category, where it currently holds the top position according to Euromonitor. With 70% of its products sold through brick-and-mortar retailers like Walmart, Target, and Staples, and the remaining 30% online, this sensory branding effort could be a game-changer in driving both in-store and online sales.

<https://www.retail-insight-network.com/news/starbucks-starbuds-trademark-infringement/?cf-view>



INTELLECTUAL PROPERTY

TRADEMARK

DR. MARTENS SUES TEMU FOR TRADEMARK INFRINGEMENT IN GOOGLE ADS

British footwear brand Dr. Martens has filed a lawsuit against online retailer Temu, accusing it of trademark infringement. The lawsuit alleges that Temu used Google advertisements featuring keywords like “Dr Martens” and “Airwair” to promote knock-off boots, leading to Temu’s products gaining visibility over Dr. Martens’ authentic items in search results. The legal action, filed in the High Court, follows similar scrutiny of Temu’s practices in the US market. Neither Dr. Martens nor Temu have commented on the case.

<https://uk.finance.yahoo.com/news/dr-marten-sues-temu-over-161722053.html>



DIGITAL HEALTH INNOVATOR FIGHTS BACK IN MAJOR IP INFRINGEMENT CASE

Adherence, a company specializing in innovative medication adherence solutions, has filed a lawsuit against CVS Health and Asembia, accusing them of unauthorised use of its proprietary Morisky Medication Adherence Scales (MMAS). The legal action alleges that CVS and Asembia have unlawfully utilised Adherence’s trademarked and copyrighted materials, causing significant damage to the company’s reputation and business.

The lawsuit claims that CVS Health has been employing the MMAS-4 and MMAS-8 scales without proper authorisation since 2016, following its URAC accreditation. These scales were allegedly integrated into Asembia-1, a patient management software platform distributed by Asembia. Adherence asserts that this misuse has led to public confusion and misrepresentation, as well as incorrect patient outcomes, adversely affecting Adherence’s standing in the market.

Adherence is seeking an injunction to prevent further use of its intellectual property, along with compensation for the financial and reputational harm suffered. The company also aims to recover statutory damages and legal costs associated with the infringement.

This case is a strong reminder of the critical importance of protecting intellectual property in the healthcare technology sector, as unauthorised use of trademarks and copyrights can lead to significant financial and reputational damage.

<https://sg.finance.yahoo.com/news/adherence-takes-legal-action-against-182400020.html>

INTELLECTUAL PROPERTY

PATENT



TRIAL CONCLUDED FOR SHANGHAI XIAO-I'S PATENT INFRINGEMENT ACTION AGAINST APPLE

Shanghai Xiao-i filed a lawsuit against Apple in August 2020, alleging that Apple's Siri infringes on its Chinese patent. Following this, Apple filed a lawsuit against Shanghai Xiao-i in February 2023, claiming that its iPhone products did not violate the patent and sought compensation for legal fees. The Shanghai High People's Court merged the cases in January 2024. The trial concluded in July 2024, and Shanghai Xiao-i is currently awaiting the court's verdict.

<https://www.manilatimes.net/2024/08/27/tmt-newswire/pr-newswire/the-shanghai-high-peoples-court-concludes-trial-in-shanghai-xiao-is-patent-infringement-lawsuit-against-apple/1967164>

THE LICENSING AGREEMENT BETWEEN ACER AND SISVEL HAS RESOLVED THE LEGAL DISPUTE

In July 2022, non-practicing entity Sisvel launched a new Wi-Fi 6 patent pool, initially joined by Huawei and Philips. The pool has since expanded to eight members and now includes over 20 licensees, such as Acer. Previously, Acer was involved in a patent dispute with Sisvel pool member Wilus, which sued Acer in 2023 at the Munich Regional Court. The case, along with other actions brought by Philips against Acer, was suspended. Now that Acer has obtained a license, all pending litigation will conclude.

<https://www.juve-patent.com/cases/licensing-deal-between-acer-and-sisvel-ends-litigation/>

INTELLECTUAL PROPERTY

PATENT

ERICSSON AND OPPO HAVE ENTERED INTO A MULTI-YEAR GLOBAL PATENT CROSS-LICENSING AGREEMENT

Ericsson and OPPO have entered into a multi-year global patent cross-licensing agreement, which encompasses patents essential to cellular technologies, including 5G. As part of the deal, OPPO will make royalty payments to Ericsson. Additionally, the agreement includes business cooperation on various 5G-related projects, such as device testing, customer engagements, and marketing activities.

<https://www.eenewseurope.com/en/ericsson-and-oppo-sign-global-patent-cross-license-agreement/>



INTELLECTUAL PROPERTY

COPYRIGHT

GEORGIAN FILM ‘THE ANTIQUE’ HAS BEEN SUSPENDED FROM SCREENING AT THE VENICE FILM FESTIVAL DUE TO COPYRIGHT DISPUTE

The Georgian film *The Antique*, directed by Rusudan Glurjidze, has been pulled from the Venice Film Festival’s Giornate degli Autori sidebar due to a copyright dispute. The copyright dispute centers around the film’s script. Scheduled screenings for August 28, August 30, and September 6 have been cancelled following a court order obtained by production companies from Russia, Croatia, and Cyprus over the film’s script.

The Court of Venice issued an emergency decree that, while not explicitly banning the film’s exhibition, has led to its suspension pending further legal developments. The festival organisers, in collaboration with the Biennale, decided to comply with the court’s directive to honor the integrity of authorial rights, reflecting their commitment to both legal adherence and the support of filmmakers like Glurjidze. The film, set against the backdrop of the 2006 deportations of Georgians from Russia, delves into sensitive historical events, making this legal clash particularly significant for the film’s visibility and impact.

<https://www.screendaily.com/news/georgian-film-the-antique-suspended-from-venice-screening-over-copyright-dispute/5196586.article>



AUTHORS FILE LAWSUIT AGAINST ANTHROPIC FOR ALLEGED COPYRIGHT INFRINGEMENT

A collective of authors has initiated legal action against the artificial intelligence startup Anthropic, accusing it of engaging in “large-scale theft” by using pirated copies of copyrighted books to train its widely-used chatbot, Claude. This marks the first legal action against Anthropic from book authors. Additionally, the company is currently contending with a lawsuit from major music publishers, who claim that Claude reproduces lyrics from copyrighted songs.

<https://abcnews.go.com/US/wireStory/authors-sue-claude-ai-chatbot-creator-anthropic-copyright-112964872>

INTELLECTUAL PROPERTY

COPYRIGHT

US ARTISTS ACHIEVE A SIGNIFICANT VICTORY IN A LANDMARK AI COPYRIGHT CASE

US District Judge William Orrick has determined that Stability AI, Midjourney, DeviantArt, and Runway AI infringed on artists' rights by unlawfully storing their works within their image generation systems. Although Orrick declined to dismiss the trademark claims associated with the case, he dismissed the accusations of unjust enrichment and breach of contract, as well as allegations that the companies' actions violated a second US copyright law.

<https://www.theartnewspaper.com/2024/08/15/us-artists-score-victory-in-landmark-ai-copyright-case>



SPORTS & GAMING

NBA REQUESTS DISMISSAL OF WARNER BROS DISCOVERY LAWSUIT OVER SPORTS BROADCASTING RIGHTS

The NBA is petitioning the court to dismiss a lawsuit brought by Warner Bros Discovery over sports broadcasting rights. Warner Bros Discovery alleges that the NBA has mismanaged these rights, but the NBA argues that the claims are unfounded and seeks dismissal of the case. The legal dispute involves contractual issues related to the management and distribution of sports media rights.

<https://variety.com/2024/tv/news/nba-seeks-dismissal-warner-bros-discovery-sports-rights-lawsuit-1236117163/>



VENU SPORTS' LAUNCH DELAYED BY INJUNCTION AMID DISPUTE WITH DISNEY, FOX, AND WBD

Venu Sports faces a delay in launching its new sports platform due to a court injunction. The delay arises from legal disputes with major media companies, including Disney, Fox, and Warner Bros Discovery, who are challenging Venu Sports' entry into the market. The injunction prevents the platform's rollout until the legal issues are resolved.

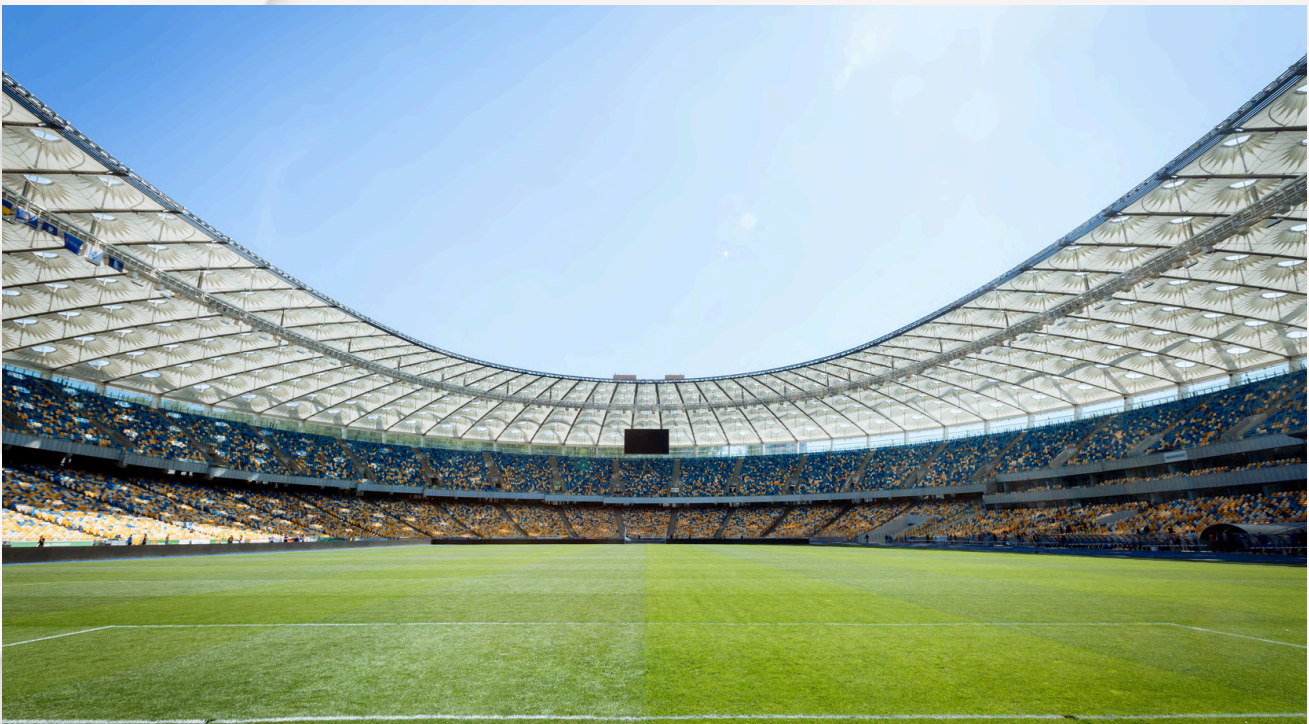
<https://www.sportspromedia.com/news/venu-sports-fubo-injunction-launch-delay-disney-fox-wbd/>

SPORTS & GAMING

WOMAN SUES WHITE SOX AFTER INJURIES FROM SHOOTING INCIDENT AT GAME

A woman has filed a lawsuit against the Chicago White Sox following injuries she sustained during a shooting incident at a game. The lawsuit claims that the team failed to ensure adequate safety measures, which contributed to the incident. The plaintiff alleges negligence and is seeking damages for her injuries, raising concerns about stadium security protocols.

<https://www.nbcchicago.com/news/local/woman-sustained-injuries-shooting-incident-white-sox-game-lawsuit-against-team/3530880/>



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

Celebrity's Name Taken in Vain

Navigating the E-Money Landscape

E-Commerce – Drive Towards Improved Postal Services

Clipping the Wings of Social Media Influencers

10 Key Amendments to Patent Law

Copyright (Amendment) Act 2022

Goodwill Unshaken by Negative Publicity

Employers' Liability for Copyright Infringement

Court of Appeal Reaffirms Test for Breach of Confidence

Trademark Mischief-Makers

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2023 Publications: Vol. 18 - Vol. 28

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- Intellectual Property, Sports & Gaming Newsletter Vol. 29
- Intellectual Property, Sports & Gaming Newsletter Vol. 30
- Intellectual Property, Sports & Gaming Newsletter Vol. 31
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