



# INSIGNIA

**DISTINCT DETAILS DELIVERED**

MAY LAW UPDATES



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# MINISTRY OF CORPORATE AFFAIRS (MCA)

## Tech Giants - Google, Apple, and Amazon Oppose India's Digital Competition Bill

The USIBC, which counts Google, Amazon, Apple, Meta, and Walmart among its members, has urged the MCA to rethink the draft Digital Competition Bill. Also compared the law to the European Union's Digital Markets Act 2022 and said that the draft Digital Competition Bill is "much further in scope" than the EU's law. In the letter, the USIBC argued that some of the restrictions proposed in the draft Bill for tech players will raise costs for the end users. [Read More](#)

## Consumer Affairs Ministry Considers Mediation to Resolve Complaints

The Department of Consumer Affairs (DoCA) is exploring mediation to resolve consumer complaints, such as travel ticket refunds and e-commerce issues, aiming to reduce legal proceedings. Nidhi Khare, Secretary of the Ministry, stated that this approach will expedite resolutions and alleviate the burden on consumer commissions. The national consumer helpline, which receives 125,000 complaints monthly, will be upgraded with legal and technological experts to facilitate this process, incorporating the Mediation Act 2023. [Read more](#)





## RESERVE BANK OF INDIA (RBI)

### RBI Issues Draft Guidelines on Prudential Framework for Project Advances

As announced on October 6, 2023, the Reserve Bank of India has released draft guidelines to enhance the regulatory framework for project finance and unify instructions across regulated entities. These revised guidelines aim to support the financing of project loans while addressing associated risks. Due to the complexities of project finance, the RBI seeks public and stakeholder feedback on the draft by June 15, 2024. [Read More](#)

### RECENT BLOGS

[A Bird's Eye View Of The Hybrid Problem Of Delayed Possession And One-Sided Contracts In Real Estate Development](#) by Namanveer Singh Sodhi, Associate and Ayushman Das, Intern

[Navigating The Jurisdictional Divide- Competition Act Vs. Patents Act](#) by Shyamli Shukla, Senior Associate and Shruti Dikshit, Intern

[Role Of IPR In Technology Licensing](#) by Aditi Arora, Associate and Shruti Dixit, Intern

[Ascertaining The Debt – Financial Or Operational](#) by Neha Buttan, Senior Associate

## MERGERS AND ACQUISITIONS

### **Vedanta buys an additional stake in Japan's AvanStrate for \$78 million through its wholly-owned Indian subsidiary, Cairn India Holdings**

The Anil Agarwal-owned company, Vedanta is set to purchase an additional stake of 46.57 per cent in Japanese electronics display manufacturing company AvanStrate. Before the acquisition, the company already held 51.63 per cent of AvanStrate. This additional purchase of a 46.57 per cent stake will take its stake to 98.2 per cent. The acquisition is done through Vedanta's wholly-owned subsidiary, Cairn India Holdings. The total value of this acquisition is around \$78 million according to the exchange filings of the company.

As per Vedanta, the acquisition of AvanStrate aligns with the company's vision of pivoting towards technology and diversifying into hi-tech manufacturing while expanding its presence in high-growth markets. [Read More](#)

### **Sony Pictures Entertainment seeks merger opportunities in India after the Sony- Zee merger falls through**

Sony Pictures Entertainment (SPE) is in discussions for potential merger and acquisition deals in India following the collapse of its merger deal with Zee Entertainment. The deal between Sony Pictures Networks India (SPNI) and Zee couldn't go through due to disagreements over leadership and unmet closing conditions. Signed in December 2021, the merger deal, which was at the final stage of talks, had received all key clearances from stock exchanges, the Competition Commission of India, and the National Company Law Tribunal.

The Company's chairman and CEO Tony Vinciguerra Sony Pictures Entertainment on 30th May 2024 said that the company is looking at various other mergers that could provide them with potential support in the marketplace. [Read More](#)







## TAX

### BookMyShow Exempt from Service Tax on Credit Card Transactions

In a landmark decision, the Mumbai Bench of the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT) has ruled that BookMyShow, an online ticketing platform, cannot pay service tax on credit card transactions. The court found that BookMyShow acts merely as a collection agent for credit card offers and doesn't retain any difference from discounts or rewards. This ruling is a significant win for the online ticketing industry, providing clarity and potential tax savings. [Read more](#)

### Bombay HC Clarifies Capital Gains Tax Treatment for Gifting Shares

In a significant ruling for wealth transfer strategies, the Bombay High Court clarified that gifting shares may not be subject to capital gains tax in India. The case involved Jai Trust, which gifted shares of several companies to its beneficiaries and declared "NIL" income for the 2010-2011 financial year. The court ruled that gifting shares held as a capital asset is exempt from income tax, invalidating the tax authorities' reassessment notice. [Read more](#)

## ABOUT US

**MAHESHWARI AND CO.** is a full service Law Firm that represents its clients in a number of complex and high value transactions. The Firm has an expertise and vast experience across various areas of practise including Corporate & Commercial Law, mergers & acquisitions, intellectual property rights, taxation, Litigation and Arbitration, Insolvency & Bankruptcy and Immigration.

Maheshwari & Co. is a key player in India's **Green Hydrogen Mission**, and has been collaborating with various national and international groups, associations, organizations, forums, and chambers to provide our expert opinion on the existing and upcoming regulatory framework.



# ARBITRATION

## Arbitration Bar of India Inaugurated

On May 15, 2024, the inaugural ceremony of the Arbitration Bar of India (ABI) took place in New Delhi with Gourab Banerji Senior Advocate of Essex Court Chambers appointed as its inaugural president. The ABI shall work on expanding the pool of competent arbitrators, particularly among the younger generation, to meet the growing demand for arbitration services. Additionally, another pertinent goal set by the ABI is to establish a network for knowledge sharing, standard setting and influencing policy reforms further to enhance India's standing in international arbitration forums. [Read more](#)

## Arbitral award can't be set aside merely due to incorrect application of law or misinterpretation of evidence

Recently a single judge bench of the Allahabad High Court in the case titled National Highways Authority Of India V. Rampyari And Another (ARBITRATION APPEAL No. 394 OF 2022) held that an award cannot be annulled merely due to an incorrect application of the law or misinterpretation of evidence, an arbitral award should only be set aside if it is clearly vitiated by "patent illegality" evident on the face of the record. [Read More](#)

## Criminal Proceedings are not barred merely because of the presence of an Arbitral clause in the agreement between the parties

On 22 May 2022, a single judge bench of the Jharkhand HC in Asit C. Mehta Investment Intermediates Ltd. And ors vs The State of Jharkhand and Anr. (Cr.M.P. No. 1241 of 2016) held that the existence of an arbitration clause does not automatically bar criminal proceedings. It held that quashing of cognizance or proceedings, as well as the initiation of arbitral proceedings related to commercial transactions, are not determinative factors. The bench held that merely because there is a remedy available for breach of contract through arbitration does not automatically lead the court to conclude that civil remedy is the sole recourse. [Read More](#)



# SECURITIES EXCHANGE BOARD OF INDIA (SEBI)

## SEBI's new framework on rumour verification

Market rumours about a company's business can create significant volatility in stock prices, often leading to transactions that don't reflect a company's true value.

With the effect of this circular the requirement to verify market rumours under Regulation 30(11) of LODR Regulations shall apply to the top 100 listed entities with effect from June 01, 2024, and to the top 250 listed entities with effect from December 01, 2024, as specified by SEBI circular dated January 25, 2024. This move aims to deter information leaks that could influence valuation during corporate actions- buybacks, takeovers etc. SEBI's initiative would bolster the framework for verifying rumours, contributing to a fair market and making it a preferred choice for investors globally. [Read More](#)

## SEBI changed the rule for calculating market cap, the six-month average is to be used now

The Securities and Exchange Board of India (SEBI) has updated the method for calculating the market capitalization of listed companies according to the listing obligation and disclosure requirement (LODR) rules. Previously, the market capitalization was calculated based on a single day. Under the new rule, listed companies will now need to use the average market capitalization over six months. This change will take effect from December 31, 2024. According to the new rule, compliance ranking will be determined based on the average capitalization from July 1 to December 31, with December 31 being the cut-off date. [Read More](#)

## NEWS & UPDATES

Maheshwari & Co. has been recognized by The Benchmark Litigation Asia Pacific Rankings 2024 for **Commercial and Transactions and New Delhi.**

Maheshwari & Co. has been recognized by The Legal 500 (Legalease) 2024 Asia Pacific 2024 Rankings for **Commercial, Corporate and M&A, Banking & Finance, Intellectual Property and Private Client.**

Our Head of Corporate Practice, **Ms. Jyotsna Chaturvedi**, has been appointed as **Co-Chair of the Gaming Gaming Forum at PHD Chamber of Commerce and Industry** for the 2023-24 term.



## INFORMATION TECHNOLOGY (IT)

### 'AI Office' to regulate tech under tough new Regulation – EU

A 140-member AI Office will be established within the commission, which is the European Union's executive arm and also acts as the bloc's powerful tech regulator. The European Union's new Act known as the "AI Act" will have a tougher set of rules for general-purpose AI systems such as ChatGPT, which takes a risk-based approach to the technology. The Office will foster a European AI ecosystem that is innovative, competitive and respectful of EU rules and values. Companies will have to comply with the EU's law by 2026, but rules covering AI models like ChatGPT will apply 12 months after the law becomes official. [Read more](#)

### **Vodafone India to deposit earnings from caller tunes: orders Calcutta High Court with a limited stay on the usage of IPRS musical works.**

On May 17, a single bench of the Calcutta High Court granted a limited stay on the key directive in ruling against Vodafone Idea (VI), restraining the telco from using copyrighted music in caller tunes without a licence from India Performing Rights Society (IPRS) and paid royalty and held that authors have statutory rights to royalties whenever sound recordings are publicly communicated. In the meanwhile, Saregama filed a separate suit in the High Court, to prevent Vodafone from using its copyrighted sound recordings for value-added services, replying to which, Vodafone filed an application to stay the suit and included IPRS as a party in the case.

[Read More](#)







## HEALTHCARE & PHARMACEUTICALS

### National Pharmaceutical Pricing Authority Fixes Prices of Formulations

On May 15, 2024, the National Pharmaceutical Pricing Authority (NPPA) issued an order establishing the retail prices for 41 pharmaceutical formulations, including at least 13 fixed-dose combinations for diabetes management. Additionally, the ceiling prices for six scheduled formulations have been set. Manufacturers are permitted to add the GST to the retail price only if the tax has been paid or is payable to the government based on the notified retail price. Following this order, manufacturers are obligated to issue a price list to the NPPA and provide copies to state drug controllers and dealers. [Read More](#)

### CDSCO Establishes Sub-Committee to Review Over-the-Counter Drug Guidelines

On May 15, 2024, the Central Drugs Standard Control Organization (CDSCO) established an eight-member sub-committee to reassess the guidelines for classifying drugs as over the counter (OTC). The Department of Health and Family Welfare had previously issued a draft notification on May 25, 2022, proposing amendments to the Drugs Rules to exempt certain OTC drugs from the requirement of a prescription by registered medical practitioners. The newly formed sub-committee will review and consider amendments to the draft notification and the Drugs Rules, ensuring that the guidelines for OTC drugs are updated to reflect current needs and practices. [Read More](#)

### READ LAST EDITION

Last month's edition navigates the dynamic landscape of Intellectual Property law updates in India, including insightful case analyses, recent judicial pronouncements and their implications.

The [Indian Patent Office](#) unveils the Patent (Amendment) Rules 2024, introducing pivotal changes in filing timelines, examination procedures, and fee structures.



## GAMING

### States and TRAI Step In to Regulate Online Gaming

Ministry of Electronics & Information Technology's self-regulatory proposal for online gaming prompted state laws in Tamil Nadu and Karnataka, with TRAI providing input on the National Broadcasting Policy 2024. Major challenges include distinguishing skill-based gaming from gambling and establishing clear regulations in the online gaming industry. [Read More](#)

### Stock gaming apps under scanner

The capital markets regulator is taking action against illegal gaming apps that provide virtual trading services and fantasy games. Apps offering virtual trading services have increased in recent years due to the strong interest from retail investors in stock trading. These users don't participate in actual trading through stock brokers; instead, they compete with others using fictional trading strategies and portfolios. It is fine if the data is used for education or fun purposes, but monetary incentives can't be allowed based on the performance of the virtual stock portfolio. SEBI's circular essentially means that it ends all platforms offering trading competition, demo trading, CFDs (contracts for difference), and more. [Read More](#)





## INTELLECTUAL PROPERTY

### HC grants injunction against Dubond Products alleging Trademark Infringement

Bombay High Court issued an injunction against Dubond Products India, preventing the manufacturing, distribution, or sale of waterproofing products till further notice as Pidilite Industries marks allegations of trademark infringement. Dubond Products India was accused of imitating the DrFixit brand's packaging, colour schemes and marks. Pidilite argued that Dubond's product copied Dr Fixit's trademark, dressing, packaging, identical colour schemes, and label which are distinctive and recognized by people, is sufficient to cause confusion in the minds of the public. [Read More](#)

### India signs WIPO treaty on Genetic Resources and Intellectual Property

Members of the World Intellectual Property Organization (WIPO) finalized a global pact requiring the disclosure of genetic resources in patent applications. This two decades of negotiations pact aim to safeguard traditional knowledge and genetic resources critical for preserving biodiversity. The pact mandates countries to incorporate disclosure requirements into their patent laws, aiming to prevent the unauthorized use of genetic resources. This pact promotes transparency in the patent system, addressing concerns about the illicit use of genetic resources. [Read More](#)

## RECENT WEBINARS/ SEMINARS

Jyotsna Chaturvedi, Head of Corporate Practice at Maheshwari & Co. Advocates and Legal Consultation, and Co-Chair of the Gaming Committee at PHD Chamber of Commerce and Industry, shared invaluable insights on the '**Regulatory Framework for the Gaming Industry and the Pivotal Role of PHDCCI**' in a recent seminar organised by PHDCCI.



## CORPORATE SOCIAL RESPONSIBILITY

As a part of its Corporate Social Responsibility initiatives, Maheshwari & Co. also created **Maheshwari Foundation**, a non-profit organisation formed by Mr. Vipul Maheshwari, the firm's Managing Partner. Recently, the foundation organized a free food camp with the aim to provide relief and nourishment to those who are most vulnerable during these harsh conditions.





## ENERGY & NATURAL GAS

### **MOOWR Instructions quashed by Delhi High Court denying benefits to Solar Power generation Units**

In a recent judgement, the Delhi High Court has held that the statutory scheme underlying the Manufacture and Other Operations in Warehouse Regulations, 2019 (MOOWR) cannot be read to exclude solar power generation in terms of permission granted under Section 65 of the Customs Act, 1962. The Court held that the activities undertaken by the writ petitioners are in accordance with the objectives of the country's transition towards renewable energy to gain cleaner energy sources. Subsequently, the court noted the absence of any intent imbuing section 65, which could be justifiably constructed as an intent to exclude a particular category of manufacturing activities from its ambit in clear or unequivocal terms.

[Read More](#)

### **Supreme Court upheld the decision of the Appellate Tribunal of Electricity (APTEL) which substantiated that Maharashtra state Electricity Distribution Co. Ltd. was not permitted to impose a reliability charge on JSW Steel Ltd.**

This decision was made by the apex court when hearing an appeal by the company aggrieved by the verdict of the appellate tribunal which set aside the order imposing reliability charges. The Court observed that under section 111 of the Electricity Act, 2003 a statutory appeal is provided against an order made by the commission. Therefore the appellant was entitled to challenge the legality of the impugned order of the commission. [Read More](#)







## STARTUPS & E-COMMERCE

### Legal dispute settled between BharatPe&PhonePe over the term "Pe"

Recently, Walmart-backed firm PhonePe and New Delhi-based fintech startup BharatPe have settled a five-year-long dispute over the usage of "Pe". In a joint statement made by both, the companies said they have withdrawn all trademark oppositions against each other. The dispute began in 2018 with PhonePe issuing a legal notice to BharatPe asking later to stop using "Pe". In 2019, PhonePe took further legal actions by filing a plea in the Delhi High Court. [Read More](#)

### Delhi High Court Seeks Flipkart's Response Over Tackling Misuse of GST By Rogue Sellers

The Delhi High Court has directed Flipkart to investigate the issue of misuse of GST by rogue sellers on its platform and sought a response to ensure that misuse does not take place on the website. The court also inquired whether different FSN numbers can be provided for the different sellers of the same product. The court made this decision when dealing with a suit by Zydus Healthcare Limited against Flipkart. In furtherance to this order, an affidavit placing on record the steps taken by it to ensure due diligence while discharging its duties as an e-commerce marketplace. [Read More](#)

## FROM LAST EDITION

### Global IP Trends

- ↔ India ranks 42nd on the International [IP Index](#) 2024.
- ↔ World Intellectual Property Day was celebrated on 26th April 2024.
- ↔ Centre leaning on startups for telecom IPRs.
- ↔ Muhammad Ali's brand pursues [trademark dispute](#) over "G.O.A.T."
- ↔ Supreme Court dismisses [MakeMyTrip's](#) Adwords challenge.



## AWARDS & RECOGNITIONS

IFLR1000



## REAL ESTATE & INFRASTRUCTURE

### **Delhi High Court restrains Real Estate Company from using Taj's Vivanta Trademark.**

The Real Estate Company was restrained from unauthorisedly using the "Vivanta" mark offering luxury flats and accommodations in a suit filed by the Indian Hotels company which owns the hospitality brand "Taj". The Indian Hotel Company alleged that the other company was using the "SHIVGYAN VIVANTA" name for one of its housing projects. Subsequent to this the latter was sued. Justice Narula concluded that identical marks and nature of services are related to or endorsed by Plaintiff. [Read More](#)

### **Karnataka Real Estate Regulatory Authority (RERA) makes direction to the builder to refund the homebuyer's amount with interest failing to complete the project pursuant to the timeframe.**

The homebuyer booked a flat in the builder's project named MantriManyatEnergia. The sale agreement was entered by both homemaker and builder for consideration of Rs. 92,96,596. The builder promised to deliver possession of the flat to the homebuyer by 31.12.2018, with a grace period of 12 Months, but the builder failed to deliver the possession of the flat in the stipulated time. The Authority KERERA holds the builder liable for delay and therefore directed to pay a refund with interest. Section 18 of the Real Estate (Regulations and Development) Act, 2016 was referred by the Authority. [Read More](#)



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