

THE IPR UPDATE

FEBRUARY 2024

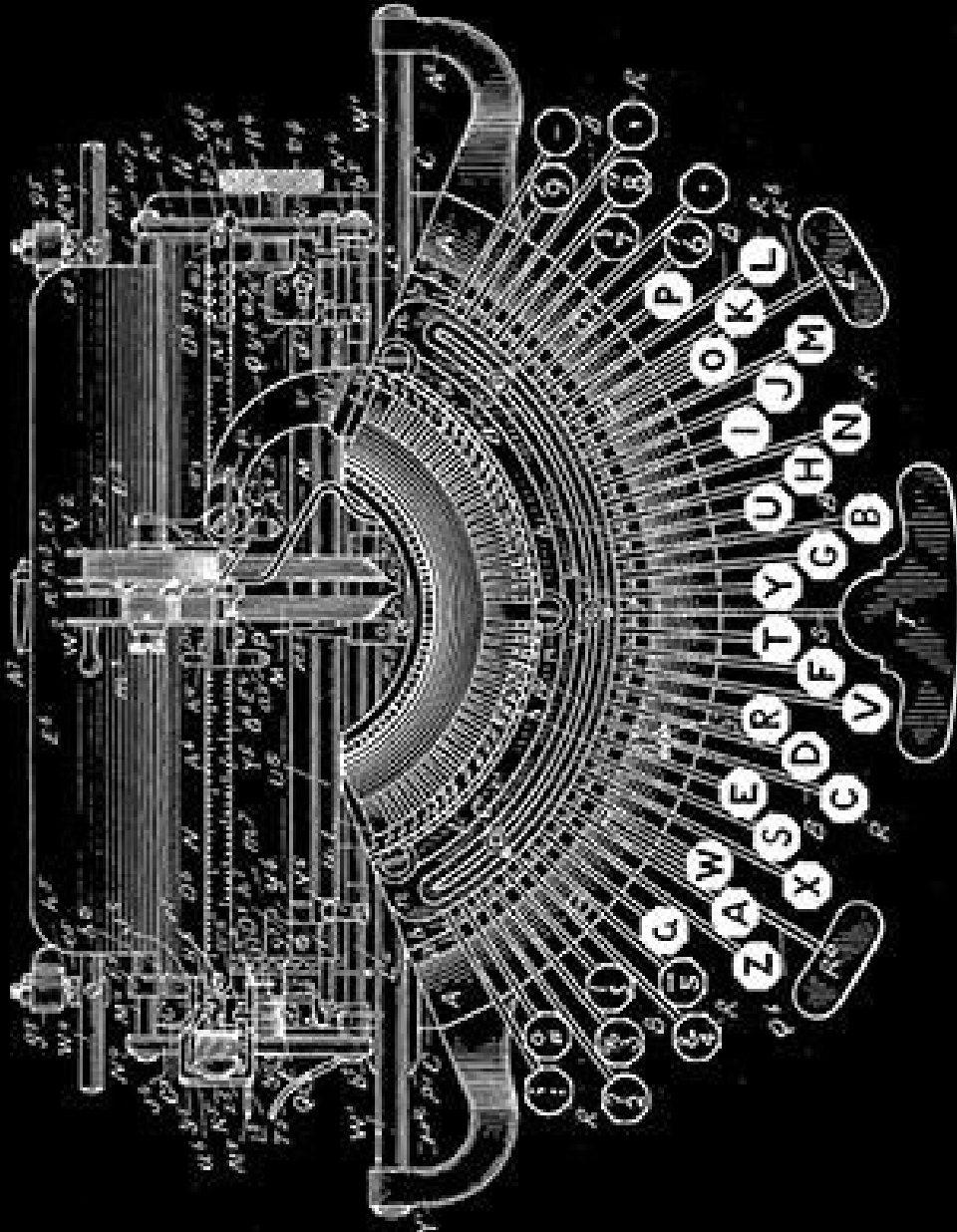


Fig. 1.

INVENTOR
Walter A. Burroughs
By Calvin W. Brown
Attorney.

WITNESSES
Edmund C. Brown
Loren C. Brown

WRIGHT VS. COPA: LONDON HIGH COURT HEARS BITCOIN CREATOR DISPUTE

ARPIT DADHICH

The legal battle over the ownership of Bitcoin and the identity of its creator, Satoshi Nakamoto, has been ongoing for years. Craig Wright's claim to be Satoshi Nakamoto, the inventor of Bitcoin, is being challenged by the Crypto Open Patent Alliance (COPA) in a London court.

Wright argues that he is the author of the 2008 white paper that serves as the foundation for Bitcoin and other cryptocurrencies, and he claims ownership of the copyright in the white paper as well as intellectual property rights over the Bitcoin blockchain.

However, COPA, which includes members such as Twitter founder Jack Dorsey's payments firm Block, is disputing Wright's claim and asking the High Court to rule that he is not Satoshi Nakamoto. COPA alleges that Wright has not provided genuine proof and has accused him of forging documents to support his assertion, a claim that Wright denies.

During the court hearing, COPA's lawyer, Jonathan Hough, described Wright's claim as "a brazen lie, an elaborate false narrative supported by forgery on an industrial scale." Hough pointed out that there are elements of Wright's conduct that seem farcical, including the alleged use of ChatGPT to produce forgeries. However, Hough emphasised the seriousness of Wright's conduct, stating that he has pursued claims amounting to hundreds of billions of dollars based on his asserted identity as Satoshi.

Wright's lawyer, Anthony Grabiner, countered these allegations, stating that Wright has produced clear evidence demonstrating his authorship of the white paper and creation of Bitcoin. Grabiner also argued that it's striking that no one else has publicly claimed to be Satoshi, suggesting that if Wright were not Satoshi, the real Satoshi would have come forward to counter the claim.

The outcome of this legal battle could have significant implications for the ownership and development of Bitcoin and the cryptocurrency space.



Reference:

Self-proclaimed bitcoin inventor's claim 'a brazen lie', London court told - The Economic Times ([indiatimes.com](https://www.indiatimes.com))

OFFICER'S CHOICE V. PEACEMAKER: A CASE OF 'SMART COPYING'

AVISHI RAJ



In *Allied Blenders & Distillers (P) Ltd. v. Hermes Distillery (P) Ltd.*, the Delhi High Court (DHC) granted Allied Blenders an interim injunction against Hermes Distilleries in response to allegations of trademark infringement of their label.

Since 2013, the spirits company Allied Blenders has maintained a registered trademark for the "OFFICER'S CHOICE PRESTIGE WHISKY" label. It claimed that the Hermes Distillery, which debuted a supposedly identical "PEACE MAKER PRESTIGE WHISKY" label in 2019, had violated intellectual property rights. The Hermes label, according to Allied Blenders, was strikingly similar to its "Officer's Choice" label in terms of the placement of brand names, colour and style of the font, product description, mark placement, colour scheme, border design, and centre design feature. Under Sections 134 (forum for filing a suit for infringement) and 135 (relief in actions for infringement or for passing off) of the Trade Marks Act, 1999, the plaintiff filed the current lawsuit in an attempt to obtain an injunction against the defendant's use of the challenged mark.

Hermes presented the following arguments :

1. That the red and white colour combinations were typical to their trade, and that the "Officer's Choice" markings have been inconsistent over time.
2. That because the defendant, a Karnataka-based company, had not distributed the contested "PEACE MAKER" product in Delhi, the court lacked jurisdiction. They added that neither party has a registered office or operates a business in Delhi, and they do not have a distribution licence for it there.

The Karnataka-based producer was hit with an interim injunction order by the DHC, which forbade them from selling whisky and other alcoholic beverages under the name "Peace Maker." Nonetheless, as long as the defendant doesn't create misunderstanding, deceit, or imitation of the plaintiff's mark or label "OFFICERS CHOICE," the injunction permits the defendant to utilise the red and white colour scheme.

The court used the 'test of similarity' in this case, evaluating the labels from the viewpoint of an average customer with imperfect recollection and concluding that the overall combination of the aforementioned elements were sufficient to make labels "confusingly and deceptively similar". The Court coined the term "smart copying" to describe the defendant's attempts to highlight differences between the labels; however, it held that the overall similarities between the two were so obvious that the dissimilarities would not matter.

Despite a jurisdictional argument being made, the Single Bench rejected it, noting that the defendant operated a godown in Delhi and that a director who lived in the city filed the defendant's trademark registration.

According to the bench, even the initial confusion about interest was legally actionable because the defendant's label was obviously a copy of the plaintiff's, possibly resulting in a deception that could lead to 'passing off'. It was further emphasised that considering the defendant's product's recent release under the disputed labels and the plaintiff's well-established standing in the market, there could be irreversible harm if the interim injunction was not granted.

Reference :

<https://spicyip.com/2024/02/a-case-of-smart-copying-peace-maker-restrained-from-imitating-officers-choice.html#:~:text=The%20Delhi%20High%20Court%20issued,that%20it%20does%20not%20cause>

IPR INFRINGEMENT: MUSIC INDUSTRY TO TRAI: HOLD METAVERSE OPERATORS ACCOUNTABLE

BHUMIKA DUBEY

Metaverse operators should be held accountable for infringements of authors' and users' intellectual property rights (IPR) according to the Indian Music Industry (IMI), whose members include Sony Music and T-Series (Super Cassettes). In response to the Telecom Regulatory Authority of India (TRAI) consultation on Digital Transformation through 5G Ecosystem, which concluded on January 22, the IMI stated that it is in favor of users and metaverse operators sharing liability and culpability in instances of intellectual property loss.

How copyright enforcement is threatened by the metaverse:

The proposal highlights the necessity of protecting intellectual property in the virtual world by pointing out that copyrighted materials are frequently used to create user-created worlds, or metaverses, without the owners of the rights' prior consent. Because of this, issues with copyright infringement, piracy, and copyright enforcement arise. Concerns over the licensing of copyrighted works, international jurisdictional issues, and the transferability of rights across various virtual environments are also voiced by the music industry.

Although the IMI contends that safe harbor should not apply to the metaverse, it is possible that social media sites will also lose this safeguard. The Information and Technology (IT) Act of 2000 would be replaced with the Digital India Act, which is presently being developed by the Ministry of Electronics and Information Technology (MeitY).

What does meta have to say?

As one of the largest global proponents of the metaverse, Meta, the business that owns Facebook, WhatsApp, and Instagram, also concurred. While current internet regulations currently apply to the metaverse, it was stated that as linked technologies and the metaverse advance, additional problems may surface. For the purpose of discussing new concerns and identifying regulatory loopholes, it demanded "a robust and inclusive framework for dialogue."



Reference :

<https://www.hindustantimes.com/india-news/hold-metaverse-operators-liable-for-ipr-infringement-music-industry-to-trai-101706948849542.html>

INDIA'S STANCE ON IPRS, PHARMA IN FTA WILL FOSTERS GROWTH OF GENERIC DRUG SECTOR: GTRI

HARSHVARDHAN SINGH



India's approach to intellectual property rights (IPRs) and pharmaceutical issues in trade agreements emphasizes a balance between promoting innovation and addressing public health needs. According to the Global Trade Research Initiative (GTRI), India's stance supports the availability of affordable medicines and fosters the growth of the generic medicine industry. By resisting pressures from developed nations to include concepts like 'data exclusivity' and 'patent linkage' in free trade agreements (FTAs), India ensures greater market access for generic drug manufacturers, leading to lower costs for life-saving medications.

The GTRI report highlights India's commitment to balancing innovation with public health needs, utilizing a flexible interpretation of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement to align with developmental goals. India aims to prevent the establishment of unfair monopolies, particularly in the pharmaceutical sector, while safeguarding traditional knowledge and ensuring access to cost-effective medications.

Developed nations often pressure developing countries like India to agree to additional IPR commitments in FTAs, beyond those outlined in the TRIPS agreement. These additional provisions, known as "TRIPS-plus," seek to enhance protection for innovator companies but may impede access to affordable medicines and hinder the growth of generic drug industries.

India's resistance to TRIPS-plus provisions in FTAs reflects its commitment to safeguarding the interests of its domestic generic drug industry. The country has consistently opposed measures like data exclusivity, which would delay the introduction of generic drugs and inflate medicine prices. India also contests automatic patent extensions due to regulatory approval delays and opposes patent linkage, arguing that these practices limit access to essential medications and impede generic competition.

India's patentability standards exceed the minimum requirements set by TRIPS, disallowing non-patentable subjects and marginal innovations. Additionally, India scrutinizes patent applications rigorously to prevent evergreening, where minor modifications to existing patents extend monopolies.

Overall, India's approach to IPRs and pharmaceutical issues in trade agreements reflects its commitment to balancing innovation, public health needs, and economic interests while safeguarding access to affordable medicines for its population.

Reference :

<https://business.outlookindia.com/economy-and-policy/indias-stand-on-pharma-iprs-in-trade-pacts-help-promote-growth-of-generic-industry-gtri#:~:text=India's%20stand%20on%20intellectual%20property,GTRI%20report%20said%20on%20Friday>

DELHI HIGH COURT JUDGE RAISES CONCERNS OVER COURTS' HANDLING OF AI-GENERATED EVIDENCE

KARTIKA BARSAINYAN

In a rapidly evolving world driven by innovation and technology, the protection of intellectual property rights (IPR) has become more crucial than ever. Recent developments in the legal landscape, particularly in the realm of Artificial Intelligence (AI), have posed new challenges for the judiciary in upholding these rights.

Delhi High Court Justice Anish Dayal recently highlighted the complexities faced by courts due to AI, expressing concerns about the credibility of evidence presented before judges. As we navigate this technological frontier, it is imperative to ensure that the integrity of IPR is safeguarded.

At the 3rd IP Excellence Awards and Global IP Conclave, Justice Dayal emphasized the significant increase in IPR-related cases, with a notable rise in civil suits, trademark rectifications, and patent appeals. The dedication of the judiciary to expedite case disposals is commendable, as evidenced by the substantial reduction in pending cases.

The establishment of the IP division by the Delhi High Court has been lauded for its efficiency and effectiveness in handling IPR disputes. This proactive approach has garnered recognition from the parliamentary committee, affirming the importance of a specialized division for intellectual property adjudication.

During the conclave, IP Excellence Awards were presented to deserving individuals and organizations who have made significant contributions to the IP ecosystem. These awards serve as a testament to the innovative spirit and dedication of those who excel in the field of intellectual property rights.

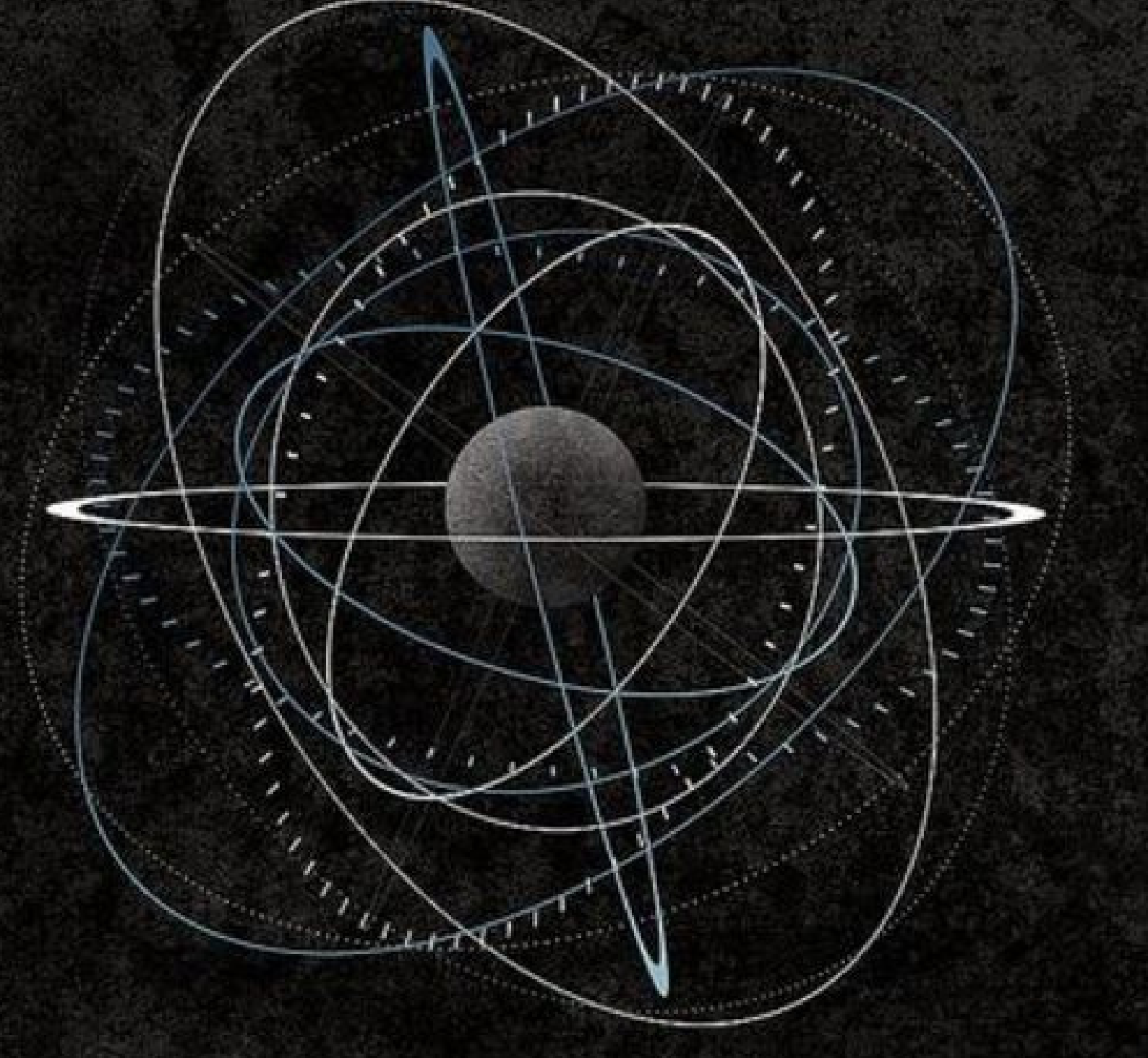
As the legal landscape continues to adapt to the challenges posed by technological advancements such as AI, it is crucial for the judiciary to stay abreast of these developments to effectively protect intellectual property rights. Justice Dayal's concerns regarding the credibility of evidence in AI-related cases underscore the need for specialized knowledge and expertise in handling such matters.



The establishment of dedicated IP divisions within the judiciary, as seen in the Delhi High Court, is a positive step towards ensuring efficient and effective resolution of IPR disputes. The recognition of individuals and organizations at events like the IP Excellence Awards not only celebrates their achievements but also highlights the importance of fostering innovation and upholding IPR in a rapidly evolving digital world. Moving forward, continued collaboration between legal experts, technology professionals, and policymakers will be essential to address the complexities of intellectual property rights in the age of AI.

Reference :

<https://economictimes.indiatimes.com/news/india/courts-facing-complex-time-due-to-ai-judges-may-not-be-able-to-believe-evidence-delhi-hc-judge/articleshow/107464844.cms>



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