

LEGAL DEPARTMENT E-BULLETIN



Dot Radio

Mr Nawaz Dookhee has been elected as the Vice Chair of the World dot Radio Advisory Board (WRAB) which met for the first time in Paris on the 30th January 2017 during the European Radio Show. The dot Radio is a new service which is being handled by our sister European Broadcasting Union (EBU). The launch of dot Radio is expected to be finalised by the end of this year with some 80 radios being given the status of pioneers. More to follow in our regular quarterly magazine.

Qualcomm being sued in US for chipboard

The US Federal Trade Commission (FTC) complained that Qualcomm was “*using anticompetitive tactics*” and “*consistently refusing to licence those patents to competing suppliers of baseband processors*”, despite a commitment to licence standard – essential patents on fair, reasonable and non-discriminatory (FRAND) terms in the phone market. Qualcomm responded by saying that it “*the complaint is based on a flawed legal theory, a lack of economic support and significant misconceptions about the mobile technology industry*”. The move comes weeks after the Korea Fair Trade Commission fined Qualcomm \$881 million for abusing its dominant position in the market. Apple is also suing Qualcomm for \$1 billion for holding it hostage and for rebate payment it has withheld.

Facebook in court over alleged Trade Secret violation

17th Jan saw Facebook’s CEO in court over claims by ZeniMax which alleges that Oculus, bought by Facebook in 2014, stole the company’s intellectual property. Zuckerberg revealed that beyond the \$2 billion price tag, Facebook paid an additional \$700 million to retain employees and another \$300 million earn-out for hitting key milestones. John Carmack, Oculus’s chief technology officer is the centre of attention. ZeniMax alleges that the Oculus Rift was “primitive” until Carmack added numerous improvements to the headset prototype, alongside ZeniMax employees.

Alibaba forms anti – counterfeiting network

E – Commerce platform Alibaba has formed an alliance called the “*Alibaba Big Data Anti-Counterfeiting Alliance*” with around 20 international brands such as Louis Vuitton, Samsung and Mars. The alliance seeks to use big data and other state of the art technology for combating counterfeiting at an international scale.

Warner Brothers and Nike obtain injunction

Warner Brothers (WB) and Nike obtained an injunction against 60 counterfeiters after nearly three years of filing the claim. They also alleged false designation of origin. As per their claim, the counterfeiters infringed the trademark and copyright of characters from “Looney Tunes” since they manufactured and sold goods including apparel, toys, and accessories. 44 of the 60 counterfeiters were ordered to pay damages ranging from \$5,000 to \$75,000.

The E-Bulletin of the ABU Legal Dept. is a fortnightly initiative to bring news and other updates to members.

Editor: Mr Nawaz Dookhee; Contributor: Ms Sharma Seemantani

To subscribe please email: Ms Sharma – seemantani@abu.org.my

UK websites to stop adverts on pirate websites

The UK Police Intellectual Property Crime Unit (PIPCU) cracked down on organisations found to be advertising on websites involved in digital piracy. Officers visited eight organisations including brands, advertising agencies and networks, as part of a multi-agency initiative known as Operation Creative, which sees the police working with both the creative and advertising industries to tackle websites involved in digital piracy. It is reported that websites involved in digital piracy can generate substantial amounts of revenue through advert placement – estimated in 2013 around \$227 million. Operation Creative has reduced 73% advertising from the UK’s top ad spending companies to websites involved in digital piracy.

Louis Vuitton loses bag parody case

Louis Vuitton’s (LV) claim against My Other Bag (MOB) has been dismissed by the US Court of Appeals. LV sued for copyright and trademark claiming drawing, colours, graphic lines and patterns were used to evoke its handbags. The main claim focused on trademark dilution by blurring, rather than passing off, i.e. gradual diminishment of a famous trademark’s ability to clearly and unmistakably distinguish a unique source of goods or services as a result of unauthorized use. MOB relied on the defence of parody and the court agreed that the copied bags were quintessentially parodies. The court ruled that MOB’s bags are designed to suggest that the wearer’s *other* bag—and not MOB’s—is an expensive LV handbag; the text “My Other Bag...” combined with the cartoon-like rendering of a Louis Vuitton handbag, builds sufficient distance between MOB’s bag and LV’s high-end products, much like the bumper sticker on a low-end car might read “My other car is a Ferrari.”

Sony’s sound recordings obtained protection in India

The Madras High Court has restrained local cable tv company Raj TV from using Sony’s sound recordings and images as well as synchronizing Sony’s underlying musical and literary works with visuals to create cinematographic films on grounds of copyright infringement. Sony has alleged that seven movies produced by Raj TV infringed its copyright over sound records as well as the underlying literary and musical works in which it held copyright.

Nordic countries update

Finland: The new law on joint administration of copyright came into force in January 2017 in Finland. It regulates all the commercial activity of copyright organisations.

Sweden: The Supreme Court (with a 3 – 2 vote) concluded that sports broadcasts were not protected as works. The reason was that the broadcast essentially was ruled by the events of the games and the result was not considered to be an intellectual creation.