

Legal Network International

IP and trade mark news – May 2022

A monthly update on global IP and trade mark news from the member firms of the Legal Network International (LNI).



China

The 1999 Hague Agreement Concerning the International Registration of Industrial Designs, ("The Hague System") became effective in China on May 5, 2022. The Hague System allows applicants to register an industrial design by filing a single application with the International Bureau of WIPO, enabling design owners to protect their designs in multiple countries or regions with minimal formalities. Companies and individuals in China can now apply directly for international protection of their designs in all 94 member countries. Similarly, international applicants can also rely on the Hague System to obtain design protection in China. It is an important development.



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France

The Paris court of appeal issued a judgment in which it applied the rule provided by art. L.615-12 of the Intellectual Property Code, according to which anyone who wrongfully claims to own a patent is subject to a fine.

More precisely, the Court held that one could lawfully use the word "PATENTED" only if a patent exists and has been granted.

If the patent is only pending, the use of "PATENTED" is deceptive as professionals are looking for innovative products and the existence of a patent being a guarantee of innovation.



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India

India's Union Budget 2022 was presented earlier this year and its suggestions on crypto tax came into effect on April 1. *Inter alia*, a 30% tax on income from transfer of virtual digital assets (cryptocurrencies and NFTs) was announced (without any differentiation between income parts), along with a prohibition on deductions, except for the cost of acquisition.



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Italy

The Italian Council of Ministers has approved the draft law, designed to amend the Italian Intellectual Property Code. The draft law aims to strengthen the technological and digital competitiveness of Italian companies. Among the innovations to be introduced, there are a greater digitalization of administrative procedures before the Italian Patent and Trademark Office (UIBM), the temporary protection of designs and models in the context of trade fairs, and the strengthening of the protection of geographical indications and designations of origin of products against imitation attempts. This bill is currently before the Parliament.



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Mauritius

As Mauritius continues to embrace virtual assets and blockchain technology, Mauritian artists, musicians and content creators have enthusiastically turned to Non-fungible Tokens (NFTs) to monetise their work. NFTs allow artists, musicians, content creators, amongst others, to have access to a global online market, with significantly lower barriers to entry and lower transaction risks. NFTs therefore present huge commercial opportunities for artists to efficiently sell their creations, including allowing artists to receive, in an automated fashion through smart contracts, royalties upon secondary sale of their artworks.



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Mexico

Crypto art or NFTs (non-fungible tokens) have the potential to become not only a new institutional art format but also a revolutionary currency for worldwide transactions. NFTs are not limited to artwork, but rather, can be used for any kind of digital objects, such as GIFs, memes, tweets, articles, drawings, music or videos, resulting in a limitless market. In Mexico NFTs are not the artwork per se, these are a link of digital information that gives an exclusive access by its owner to an artistic work within cyberspace.



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Singapore

"Estrella Galicia" Trade Mark Proceeds to Registration after Damm failure. Sociedad Anonima Damm, proprietor of the trade mark "Estrella Damm" failed in its opposition to Hijos de Rivera, S.A.'s "Estrella Galicia" logo application in Class 32. The Registrar found, amongst other things, that the word element "Estrella" is not the dominant component in either the application mark or the opponent's mark. The average consumer would view "ESTRELLA" and "DAMM" together as a whole and not simply focus on "ESTRELLA" or "DAMM". [Learn more here.](#)

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Sweden

Swedish law requires businesses to pay remuneration if they manufacture or import devices, that are suitable for private copying of copyright protected works, "the private copying levy". The current scheme is costly, inefficient and has a tendency to trigger legal disputes. In an Official Government Report presented in April 2022, new rules are proposed on how to define who may claim and who is liable to pay remuneration. It is proposed that a new government agency be established with the task of specifying, every two years, which devices will entail liability to pay remuneration and the levels of remuneration involved.

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UK

The UK Court of Appeal has overturned a judgement in a significant move which will strengthen a brand owners' ability to object to the use of its trade marks in a global marketplace. This judgement constitutes a significant change in the way offers for sale in a global marketplace are assessed to be an infringement. [Learn more here.](#)

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USA

In an effort to streamline opposition and cancellation proceedings that proceed to trial, the United States Trademark Trial and Appeal Board ("TTAB") is considering a pilot program for holding Final Pretrial Conferences in matters. The goal of the program "is to save time and resources of parties and the TTAB, and to foster the effective and efficient presentation of evidence." Additional information can be found. [Learn more here.](#)

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