

Legal Network International

IP and trade mark news – October 2024

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



Colombia

Coca Pola is an artisanal beer crafted from coca leaves sourced from indigenous crops in Colombia.

The conflict between Coca-Cola and Coca Pola in Colombia centers on the similarity of their names. Coca-Cola, a globally recognized trademark, has issued a cease-and-desist letter to Coca Pola, requesting a name change to avoid any likelihood of confusion. Although Coca Pola is not a registered trademark, the indigenous community has petitioned Colombia's PTO to revoke Coca-Cola's trademarks, arguing that they infringe upon their cultural heritage.

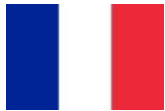
While the PTO has yet to resolve Coca Nasa's request, this dispute highlights the need to balance trademark rights with indigenous traditions, both of which protected by Decision 486 of the Andean Community.



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France

Mr. X. was reproducing the trademark "DHI" on his social media accounts (Facebook and Instagram) via different posts to promote his own activity. The trademark holder, the company Lutetia Medical, requested to Meta the deletion of the litigious accounts but simply obtained the deletion of some litigious posts.

On May 29, 2024, the Paris High Court judged that the unauthorized use of the trademark "DHI" violated Lutetia Medica's rights and constituted trademark infringement. The Court recognized the infringement as manifestly illegal and ordered Meta to remove the litigious accounts within 15 days as the *"deletion of some of the posts is not enough to stop the illegal activities on social media"*.

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India

In the matter of **The Indian Hotels Company Limited vs. Manoj**, the High Court of Delhi held that the Defendant was not only guilty of infringing the Plaintiff's longstanding trademark "Taj" and photographs available on the Plaintiff's website but also engaged in criminal activity by impersonating the Plaintiff and defrauding individuals.

Consequently, a Decree for Permanent Injunction was issued in favour of the Plaintiff and against the Defendant. Additionally, the Plaintiff was granted permission to approach the Domain Name Registrant to facilitate the transfer of the Defendant's domain. The court also awarded damages to the tune of INR 1 Million (\$ 12,000) and costs of INR 0.5 Million (\$ 6000) to the Plaintiff.


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In a case concerning the use of a painting protected as a cultural object, the Court of Appeal of Bologna ruled that its use as a trademark (in the specific case for a vinegar bottle) requires an administrative license subject to a technical and discretionary assessment of its compatibility with the cultural purpose of the object. Without this authorisation and in violation of established procedures, using the image is deemed unlawful and may lead to compensable damages under Article 2043 of the Civil Code.



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The Court clarified that the reason behind this requirement is linked to the assumption that cultural goods, when affected by market dynamics, lose their value, as identified and deemed worthy of protection by the legislator.

On October 10, the new President of Mexico, Claudia Sheinbaum Pardo appointed Santiago Nieto Castillo as General Director of the Mexican Institute of Industrial Property who was head of the Financial Intelligence Unit from December 2018 to November 2021 and was also technical secretary in the Executive Secretariat of the Plenary of the Federal Judiciary Council.



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This appointment is a relevant change for industrial property in Mexico. Currently, there are concerns about how he will exercise his functions given his lack of experience in the matters additional to the fact of the constant changes of director that have been arisen in recent months.

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In a case concerning retransmission of television broadcasts and sales of iptv-subscriptions, the Patent and Market Court of Appeal sentenced a person for aiding and abetting copyright infringement in the so called "right to signal" held by television companies.



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The infringement had been ongoing for one year, in organized form and for commercial purposes. According to the court, the defendant had been complicit in the illegal activity for the entire year, but the defendant was not sentenced to prison.

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The Bank of England has established the Artificial Intelligence Consortium. This will be a platform for gathering input from stakeholders on AI's capabilities, development and use in financial services.

While the Consortium will have no decision-making capacity, it is intended that the Consortium's discussions will inform the Bank of England's approach to addressing risks and promoting the safe adoption of AI.

<https://www.bankofengland.co.uk/research/fintech/artificial-intelligence-consortium>

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