

The Legacy Outreach



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Cybersquatting and the Need for Regulations

Last year, the people of India came across a unique circumstance, where the anticipated merger of two large Over the Top (OTT) platforms, Jio Cinema and Hotstar, was used as an opportunity by a cyber-squatter for allegedly funding his studies abroad. In the press release published on the purchased domain which would later go on to be the OTT's official website, JioHotstar, the squatter specified the time of his purchase to be linked to the news reports suggesting possible merger talks, and further expressed a "willingness" to transfer the possession of the same to the owner on the payment of his foreign education expenses. Before the situation could turn into a long-drawn litigation, the domain was purchased by certain foreign philanthropists and thereafter donated to the owner of the OTT, thus avoiding any further complexities.

This situation, while resolved somewhat amicably, raised a number of questions concerning cybersquatting and its regulation in the Indian jurisdiction. These questions, pertaining to the fundamental nuances of cybersquatting and its regulation within the Indian jurisdiction, further extended to the various circumstances, where the basic definition of cybersquatting was challenged on account of the innovative ideas adopted by individuals, in cases similar to the aforementioned one.

Understanding Cybersquatting and the Prevailing Laws

The traditional definition of cybersquatting refers to the act of registering or purchasing a domain, the name or the concerned product of which is not legally owned or trademarked by the registrant, wherein this definition has been extended to include the registration of spelling

variations of the original domains, thereby causing a diversion of traffic to alternate websites (commonly known as 'typosquatting').

In the case of **Pet Warehouse vs. Pets.com Inc** [1], the WIPO Arbitration and Mediation Center held that the act of 'abusive domain name registration' may be established through three elements, namely:

- That the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- That the Respondent lacks any rights or legitimate interests in respect of the domain name; and
- That the domain name has been registered and is being used in bad faith.

In India, while the Trademarks Act, 1999, protects domain names from infringement, the mention of cybersquatting may be specifically found only in the cases before the High Courts of various jurisdictions, where while many cases are pending adjudication, one reportable case, **Manish Vij & Ors. vs. Indra Chugh & Ors** [2] affirmed the test laid out in the Pet Warehouse case, while observing the failure of the plaintiff to establish the three elements.

In terms of legislative expression, however, cybersquatting is yet to be dealt with, thereby leaving room for ambiguity and opportunity for the wrongdoers.

The Role of Artificial Intelligence in Cybersquatting Prevention

A unique characteristic of Artificial Intelligence (AI) is that it holds a number of threats and progress factors for almost all skills and crimes, including cybersquatting. While refraining from focusing on the negative, it may be relevant to emphasize the ways in which AI may be able to assist domain owners/right enforcers in preventing the growth of cybersquatting.

The key feature of AI that holds the greatest potential for preventing cybersquatting is machine learning. By inputting potential spelling variations, original domain name, or the names of products, amongst other such key identifiers within the application, a user may be able to train the technology to scan the World Wide Web for any cyber-squatters, facilitating an early detection, swift reporting, and expedited action. To further ease the process, the technology may also be trained to directly search for the names of the owners of the defaulting domains, thereby assisting the owners in registering complaints before appropriate authorities.

Additionally, the use of AI may be made to detect any anomaly within the website traffic to identify user traffic diversions, or for tracking any alternative domain registrations. Other than the aforementioned, AI showcases a range of possibilities for preventing cybersquatting, wherein such possibilities are limited only by imagination.

However, while the technology may assist users in detecting any potential threats to their domains, the actual enforcement of their rights is dependent only on the prevailing regulations within India.

The Indian Regulatory Sphere – Prevailing and Needed

At a global level, domain names are protected under the Uniform Domain Name Dispute Resolution Policy (UDRP), developed by the Internet Corporation for Assigned Names and Numbers (ICANN).

The Indian version of the UDRP is the .IN Domain Name Dispute Resolution Policy (INDRP) provides protection to the government-owned websites. For the other websites, however, the offence of cybersquatting, in a few of its forms, is mainly governed by the Trademarks Act, 1999, and the Information Technology Act, 2000. However, both of these enactments fall short in various ways.

As aforementioned, cybersquatting is a dynamic offence, holding various forms, other than the one highlighted in the JioHotstar case. From typosquatting to the use of Cyrillic letters, the offence continues to induce many domain owners, as well as users, to involuntarily aid the profit generation of the miscreants.

Needless to mention that in the cases of cybersquatting, which are similar to the OTT case, the establishment of the offence in itself is ambiguous, thus leading to a dilemma with the courts and the aggrieved on the proof that can be accepted.

For tackling such an ever-changing form of offence with a large grey area, a special law/regulation/policy is strictly needed.

End-Notes

- Pet Warehouse vs. Pets.com Inc., Case No. D2000-0105, WIPO Arbitration and Mediation Center.
- Manish Vij & Ors. vs. Indra Chugh & Ors., AIR 2002 Del 243.

Snippets: Legacy Updates

Our Managing Partner, Mr. Gagan Anand, had the opportunity to speak at the Caucasus & Central Asia Construction Forum, organized by the Kazakhstan National Association of Professional Engineers and Consultants in Astana, Kazakhstan. The extensive discussion revolved around the usage and challenges incurred in the ground-level execution of FIDIC Contracts. The esteemed panel comprised some widely experienced FIDIC Experts, Procurement Experts, Legal Experts, and Engineers from around the world.



Our Director, Ms. Vandana Randhawa, moderated an insightful webinar on "Strategies for Winning International Projects: Building Global Bridges and Business Excellence", organized by the Consulting Engineers Association of India (CEAI). The Keynote Speaker, Dr. Manmohan Prakash, Former Senior Advisor, Office of the President, Asian Development Bank, highlighted the importance of competent technical staff/expertise alongside the significance of the proposed methodology to enhance the quality of proposals submitted by Consultants. The session also discussed various loopholes, shortcomings, and challenges faced by independent engineers and other organizations to showcase their expertise on paper before showcasing the same in the field.



As a member of the FIDIC Contracts Committee (CC), Mr. Gagan Anand attended a meeting in Morges, Switzerland, alongside other colleagues from the Committee as well as the CEO and Vice-President of FIDIC. The Committee discussed the development of standard forms of contracts to be used for civil engineering projects across the world and emphasized the significance of the usage of standard forms to ensure effective risk allocation to safeguard the rights of the parties to the contract.



The UK-India Free Trade Agreement

Very recently, the Government of India and the Government of the United Kingdom have announced the finalization of the agreement terms for the India- UK Free Trade Agreement (FTA) on May 6, 2025. The legal text of the FTA will be subjected to ratification by the countries along with the Double Contributions Convention (DCC) to derive benefits from the deal.

Apparently, the FTA gives impetus to multifarious facets such as trade, investment, growth, job creation, and innovation. In parallel with the Free Trade Agreement, India and the United Kingdom have agreed to negotiate a Double Contributions Convention (DCC), which will come into force at the same time as the trade deal.

The reciprocal Double Contribution Convention (DCC) has been negotiated to make provisions to ensure that employees moving between the UK and India, and their employers, will only be liable to pay social security contributions in one country at a time and that employees temporarily working in the other country up to 3 years will continue paying social security contributions in their home country.

The salient features of the Indo-UK FTA, inter alia, include:

- Economic integration along with trade liberalisation, tariff concessions, facilitation of trade, and commitment to services of IT/ITeS, financial services, and professional services.
- Ease of mobility for professionals.
- Commitment to digitally delivered services and digital trade systems.

- Establish a robust state-to-state dispute settlement mechanism for resolving certain trade disputes.
- Access to the Indian government procurement market for UK businesses and ensure open and transparent government procurement processes in both countries.
- Improvement of patent procedures, commitment to engaging in aspects of copyright and related rights, and the right to apply for GIs.
- Upholding international labour standards and commitment towards international labour protections for Indian and UK workers.
- Tackling forced labour and gender discrimination in the workplace, and promoting decent working conditions and commitment to the enforcement of labour laws.
- Enhancement of the opportunities for women's economic empowerment and promotion of gender equality through trade.

Comments by our Corporate Partner

The UK-India FTA carries the weight of substantial expectations across numerous sectors and holds considerable potential. Beyond the core objectives of trade cooperation and mutual sustainable economic growth for both nations, the proposed ease of mobility of professionals and social security benefits are positive developments awaited with much expectation. The reaffirmation of the commitment to upholding international labour standards and enforcing labour laws warrants close attention, particularly in light of India's recently enacted four (4) labour codes.

The establishment of a clear and reliable mechanism for resolving trade disputes may foster greater confidence among businesses and investors in both countries, reducing legal uncertainty and encouraging sustained long-term engagement, however, the efficacy of such a mechanism will be contingent upon several factors including the design, composition of dispute settlement panels, time for disposal and force of its rulings.

Opening up public procurement to international competition and increased global tender enquiry (GTE) can increase efficiency, innovation, and better value for money as foreign businesses can bring additional expertise and could lead to more UK investors opening offices in India thereby attracting Foreign Direct Investment (FDI) in India; however, public procurement will nonetheless require sensitive consideration with due regard to indigenous businesses.

Moreover, given the growing recognition of intellectual property and its importance and substantial Intellectual Property (IP) filings in India, the articulation and enforcement of IP commitments within the FTA will be worth observing. While all nations continuously emphasize women's empowerment, the FTA's approach in this area also remains an important aspect to monitor. Ultimately, the process of transforming the FTA's significant commitments and assertive goals into tangible and positive realities will be a crucial area for observation and analysis.

About the Author

Mr Amarendra Gogoi is a leading legal professional with an experience of 15+ years, where he has rendered advisory and support to numerous national and international clients in their investments.

The diversified expertise of Mr Gogoi extends to a variety of practice areas and sectors, including projects, infrastructure, real estate, doing business in India, energy, public procurement, investment advisory, amongst others.

His recent experience highlights include:

- Advising a prominent international financing institution on the development of procurement policies that align with the laws of India and Germany.
- Legislative assessment and policy advisory for the World Bank Funded Asset Monetization Project in Odisha.
- Contract Management and legal advisory to an international company in the setting up of their wholly owned subsidiary in India.

Mr Gogoi is a proven professional, ranked as a *Recommended Lawyer* in **Legal 500 Asia Pacific 2025**.



Snippets: Legacy Updates

Benchmark Litigation Asia Pacific 2025

Legacy is thrilled to announce its rankings within the Construction, Labour & Employment, and Government & Regulatory practice areas in Benchmark Litigation Asia Pacific 2025. Owing to its immense contribution to these areas, Legacy has been ranked as a '**Recommended Law Firm**'.



Other than the Firm, our Managing Partner, Mr. Gagan Anand, and our Senior Partner cum Chair DR, Ms. Sadiqua Fatma have been recognized as 'Litigation Stars' for the work carried out by them in the construction law practice area. The rankings are a testament to the hard work and distinguished expertise acquired by our Partners and other lawyers over the years.

IBLJ Law Firm Awards

Legacy Law Offices LLP was conferred with the 'Law Firm Award 2025' by the Indian Business Law Journal (IBLJ) for its contribution to the areas of Policy & Regulation and Capital Markets. The recognition is a reflection of the notable expertise held by our lawyers.



Completion of the UNDP Yemen Solar Project

In March 2025, the Firm completed its work on the UNDP Project for setting up Solar Power Plants in Abyan and Al Mahra Governorates of Yemen. Services rendered by the Firm included the drafting and vetting of agreements, as well as the Sovereign Guarantee, rendering legal advice to the client, and supporting the client in its negotiations with the concessionaire.

The project held strategic importance to Yemen, which faced a scarcity of electricity due to a number of extenuating factors.

Welcoming our new Corporate Partner

Legacy is pleased to announce the joining of its new Corporate practice Partner, Mr. Kamalkant Thakur. Mr Thakur was previously associated with Ernst & Young and brings with him considerable expertise in the areas of procurement and policy.

At Legacy Law Offices LLP, Mr Thakur shall be forming part of a number of vital projects, domestic and international, and shall be advising various companies, multilateral agencies, and organizations on project development, bid process management, and sustainable development.



Framework for Environment, Social and Governance (ESG) Debt Securities

As global attention intensifies around climate change, social inequalities, and governance reform, capital markets are adapting by offering investment mechanisms that blend financial returns with broader societal impact. One such mechanism is the ESG (Environment, Social, and Governance) Debt Securities. It has emerged as a key financial tool across international markets. Recognizing this transition, SEBI issued a comprehensive regulatory framework on June 5, 2025, governing ESG debt securities other than green bonds. This landmark circular lays the foundation for India's sustainable debt market and demonstrates the regulator's commitment to aligning the country's capital markets with global best practices in sustainable finance.

Instruments Under the Framework

ESG debt securities, as defined under Regulation 2(1) (oa) of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, now encompass green bonds, social bonds, sustainability bonds, and sustainability-linked bonds. The framework recognizes three specific categories of ESG debt securities, each serving a unique purpose.

Social bonds are debt instruments used to finance or refinance projects aimed at solving specific social issues. These may include initiatives related to healthcare, education, affordable housing, food security, employment generation, and equitable access to services.

Sustainability bonds are used to fund a mix of both green and social projects. These instruments are especially useful where the boundaries between environmental and social objectives blur, for instance, in the case of clean energy access in low-income regions.

Sustainability-linked bonds (SLBs) operate on a different model. Unlike the other two, SLBs are not limited to particular types of projects. Instead, their key financial or structural terms, such as interest rates are linked to the issuer's ability to meet specific, measurable sustainability goals. These goals must be defined through KPIs (Key Performance Indicators) and should be matched against SPTs (Sustainability Performance Targets).

International Benchmarking and Market Relevance

SEBI's framework draws inspiration from leading global standards, including those of the International Capital Market Association (ICMA), the European Union Sustainable Finance Taxonomy, ASEAN Green Bond Standards, and the Climate Bonds Initiative. This alignment boosts India's global investment appeal by assuring investors that domestic ESG instruments meet recognized benchmarks. Internationally, ESG debt securities have gained significant traction, with over USD 1.5 trillion issued globally in 2023. In India, companies like HDFC, NTPC, and Adani Green have already entered the ESG space.

Key Compliance and Disclosure Requirements

To ensure transparency and investor confidence, SEBI mandates a robust set of disclosures and ongoing obligations for issuers. These begin at the pre-issuance stage and continue throughout the lifecycle of the security. Issuers must disclose detailed information in the offer document, including the project's purpose, intended beneficiaries, decision-making criteria, and risk mitigation plans.

For SLBs, there is also a requirement to explain how the selected KPIs and SPTs align with the issuer's overall business and sustainability strategy. Once listed, issuers are expected to provide annual updates on how the funds are being used, the progress of financed projects, and the measurable outcomes achieved. Where possible, this reporting should include quantitative metrics. These reports must be backed by verification from an external auditor.

An essential feature of the framework is the requirement to appoint an independent third-party reviewer or certifier. This entity must be separate from the issuer's management and possess expertise in ESG assessments. The reviewer's role is to evaluate whether the bond meets recognized standards, review internal processes, and confirm the credibility of reported outcomes. The appointment must be disclosed in the offer document, ensuring transparency from the outset.

Preventing Purpose-Washing

SEBI has addressed a major global concern, also known as purpose-washing or greenwashing, where issuers exaggerate or misrepresent the sustainability benefits of their bonds. The framework explicitly prohibits misleading labels, selective reporting, and unverifiable claims. Issuers are required to monitor the social or environmental impact of their projects and disclose any material deviation from what was originally promised. If misuse of proceeds is discovered, issuers may even be required to redeem the bonds early.

Legal and Compliance Implications

For legal advisors and compliance officers, the framework introduces new layers of responsibility. Drafting offer documents now requires more than regulatory compliance.

The new framework requires a clear understanding of ESG objectives, third-party certification protocols, and sectoral sustainability benchmarks. In SLBs, legal teams must ensure that KPIs and SPTs are appropriately defined, measurable, and legally enforceable. Legal professionals will also play a key role in helping issuers coordinate their obligations under SEBI's ESG framework with other compliance requirements mandated by SEBI, as well as CSR rules under the Companies Act and guidelines for ESG rating providers.

Addressing Practical Challenges

While the framework is comprehensive, it is not without challenges. Measuring social outcomes is inherently more subjective than tracking environmental metrics like carbon emissions. This could complicate performance assessments. Further, smaller issuers may find the reporting and third-party verification process complex and financially exhausting. To alleviate this, SEBI has permitted bi-annual reporting for issuers eligible to list on SME exchanges.

Building Trust Through Regulation

SEBI's 2025 ESG debt securities framework is a milestone in India's transition towards responsible and impact-oriented investing. It provides issuers with a clear regulatory path to raise sustainable finance while offering investors a structured way to evaluate the credibility of ESG claims. For legal professionals, it opens new dimensions of advisory and compliance work that blend legal expertise with strategic ESG insights. As India moves toward becoming a greener and more inclusive economy, frameworks like this will serve as essential tools to ensure that growth is not just fast, but fair and forward-looking.

In Brief: SEBI AI/ML Guidelines

On June 20, 2025, the Securities and Exchange Board of India (SEBI) published a Consultation Paper on the “Guidelines for Responsible Usage of AI/ML in Indian Securities Markets. Published for inviting suggestions and comments from relevant stakeholders, the proposed guidelines seek to optimize benefits while minimizing any potential risks associated with AI/ML integration and are based on seven ‘broad principles’ as highlighted in NITI Aayog Guidelines on the use of AI/ML, namely:

1. Safety & Reliability.
2. Equality.
3. Inclusivity and non-discrimination
4. Privacy and security
5. Transparency
6. Accountability
7. Protection and reinforcement of positive human values

The key recommendations provided by SEBI in its Guidelines have been provided below:

Model Governance

The Guidelines recommend that Market Participants establish skilled internal teams for monitoring the testing and performance of the AI ML technologies throughout their lifecycle. Amongst the various functions assigned, the internal teams must be able to implement risk control measures, organize training, establish procedures for handling errors, and ensure uninterrupted functioning of the software. The Guidelines also recommend the establishment of a Senior Management team to keep oversight on model development, validation, testing, and deployment.

The Guidelines further propose that AI/ML applications be subjected to independent auditing, with the reports being communicated to SEBI for the purposes of maintaining transparency.

Investor Promotion

The guidelines propose to make it mandatory for the market participants to disclose the use of AI/ML applications to the consumers to ensure trust and transparency of processes. The mention of an investor grievance mechanism has also been made for the AI/ML system, which must be in line with the SEBI guidelines.

Testing Framework

The Guidelines have directed the market participants to carry out the appropriate testing of the AI/ML models in a segregated environment before the same may be deployed. Such testing must also include shadow testing and must be properly documented. In order to avoid any unforeseen changes within the models, the Guidelines propose adequate and real-time monitoring of the systems.

Fairness, Bias, and Data Privacy

It must be ensured that the AI/ML models are free from bias, fair, and transparent. Training has also been proposed to raise awareness about the potential data biases that may exist. Owing to the dependency of AI/ML applications on data collection, the Guidelines direct the market participants to establish clear policies for data security, cybersecurity, and data privacy. Any technical glitches and data breaches must be reported to SEBI and other relevant authorities.



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Specialist advice must be sought about specific circumstances.



CONTACT DETAILS

DELHI

**Legacy House, D-18, Nehru
Enclave, Kalkaji, New Delhi-
110019, India.
T +91 114 1752507-08
F +91 114 1752509**

CHANDIGARH

**Legacy House, #333, Sector 4, MDC,
Panchkula- 134114, India.
T +91 172 4801333, 4802333
F +91 172 2559335**

*Also at | Solan | Kurukshetra | Mohali |
Representative Offices | Kingdom of Saudi Arabia | France | Kenya*

www.legacylawoffices.com

