Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
Edition 27th 22-23
Week – October 03rd to October 07th

<u>Quote for the week:</u>

"Some people dream of success, while other people get up every morning and make it happen"

– Wayne Huizenga.

Introduction

We welcome you to our weekly newsletter!

The 'Swift e-Bulletin' - weekly newsletter, covers all regulatory updates and critical judgements passed during the week. We hope that you liked our previous editions and found it to be of great value in its content. We want this newsletter to be valuable for you so, please share your feedback and suggestions to help us improve.

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Reserve bank of India ("**RBI**"), Securities and Exchange Board of India ("**SEBI**") and orders by High Court.

The Regulatory authorities provided various updates/relaxations, some of which being:

- **RBI vide Notification dated October 06, 2022 issued the Reserve bank of India (Credit Information Companies- Internal Ombudsman) Directions, 2022.**

- **SEBI vide Circular dated October 03, 2022 brought in the extension in timeline for entering the details of existing outstanding non-convertible securities in the 'Security and Covenant Monitoring' system hosted by Depositories.**

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of October 03 to October 07, 2022.

Thank you,
Swift team

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REGULATORY UPDATES

RBI

1. RBI vide Notification dated October 06, 2022 issued Reserve bank of India (Credit Information Companies- Internal Ombudsman) Directions, 2022.

- RBI vide Notification October 06, 2022 issued Reserve bank of India (Credit Information Companies- Internal Ombudsman) Directions, 2022.

- RBI vide the Statement on Developmental and Regulatory Policies dated August 5, 2022 brought in Credit Information Companies (CICs) under the Internal Ombudsman (IO) Framework.

- Through this Notification, RBI introduced the Reserve Bank of India (Credit Information Companies- Internal Ombudsman) Directions, 2022.

- The said Directions includes:

  - Definitions
  - Appointment of Internal Ombudsman
  - Internal Audit
  - Secretariat to the Office of Internal Ombudsman
  - Roles & Responsibilities of Internal Ombudsman
  - Procedural guidelines

To read the Notification in detail, please click here.

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SEBI

1. **SEBI vide Circular dated October 03, 2022 brought in the extension in timeline for entering the details of existing outstanding non-convertible securities in the 'Security and Covenant Monitoring' system hosted by Depositories.**

- SEBI vide Circular SEBI/HO/MIRSD/MIRSD_CRADT/CIR/P/2021/618 dated August 13, 2021 prescribed the manner of recording the charges by issuers and manner of monitoring and other responsibilities of various market participants.

- Pursuant to the above Circular, SEBI vide Circular SEBI/ HO/ MIRSD/ CRADT/ CIR/ P/ 2022/38 dated March 9, 2022 issued the operating guidelines for various stakeholders.

- Further, SEBI received representations asking for increasing the timeline to enter the details of the existing outstanding non-convertible securities, pursuant to which SEBI vide circular dated March 29, 2022 increased the timeline to enter the details into DLT Systems on or before October 31, 2022.

- The verifications of the same will be ensured till ***December 31, 2022***.

To read the Circular in detail, please click here.

2. **SEBI vide Circular dated October 06, 2022 issued modifications to the guidelines regarding execution of 'Demat Debit and Pledge Instruction' (DDPI) for transfer of securities towards deliveries / settlement obligations and pledging / re-pledging of securities.**

- SEBI vide Circular dated October 06, 2022 issued the modifications to Circular no. SEBI/HO/MIRSD/DoP/P/CIR/2022/44dated April 04, 2022 on Demat Debit and Pledge Instruction of securities.

- The said Circular is modified to include in the ambit DDPI:
  - Mutual fund transactions on stock exchange order entry platform.
  - Shares tendered in open offer through entry platforms.

- Accordingly, Para 3, Para 4.2.1, 4.2.2, 8 & 9 of the April, 2022 Circular has been modified to the extent to widen its ambit.

- The Stock Exchanges shall take all the necessary steps to make the implementation of this Circular effective.

- The said Circular will come into effect from ***November 18, 2022***.

To read the Circular in detail, please click here.

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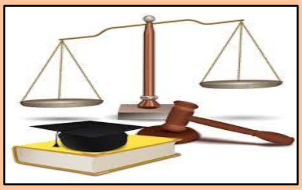
HIGH COURT

1. **Delhi High Court held that TIMAB has prima facie demonstrated prior and continuous use of the impugned mark, and thus, is entitled to restrain the use of identical/ similar mark for identical product by any third-party, including SHAMROCK**



Shamrock Geoscience Ltd & ANR.	Plaintiffs
Kaba Infratech Private Limited & ANR.	Defendants

And

TIMAB NL BV	Plaintiffs
Shamrock Geoscience Ltd & ANR.	Defendants

Date of Order: October 06, 2022

- Common order disposed of the interlocutory applications filed in cross-suits – both seeking, inter alia, injunction against each other from use, passing-off, unfair competition, dilution and blurring of the mark 'GeoCrete' over which, both parties claim proprietary rights and utilise it in respect of identical goods viz. cement additives and soil stabilisation preparations used in construction of roads, highways, pavements, reservoirs etc.

- Reference was also been made to certain inter-related entities, in pleadings and during the course of arguments, which are not parties to the suit. Two main contesting groups/ parties viz. Shamrock Geoscience Ltd., its sister concerns, subsidiaries, and Mr. Andreas Korytowski's companies shall be hereinafter collectively referred to as "SHAMROCK"; and whereas, Timab NL BV, Kaba, its predecessors-in-interest, sister concerns and subsidiaries shall be hereinafter collectively referred to as "TIMAB", since there were several entities which shall be referred to in the judgement, in order to make it a convenient read.

- It was concluded that, TIMAB has prima facie demonstrated prior and continuous use of the impugned mark, and thus, is entitled to restrain the use of identical/ similar mark for identical product by any third-party, including SHAMROCK. The use of the impugned mark is identified with TIMAB on account of its continuous prior use, and thus, the balance of convenience lies in its favour. Irreparable damage would be caused to its business and goodwill in case SHAMROCK is not restrained by way of an injunction. An injunction is granted in favour of TIMAB restraining Shamrock Geoscience Ltd. and its authorized representatives from manufacturing, advertising, marketing, selling, offering for sale, exporting, importing distributing, promoting or in any other manner using the impugned mark or any other identical/deceptively similar mark with respect to goods falling under Class 1 or any other cognate or allied goods resulting in likelihood of confusion and violation of TIMAB's exclusive rights in the impugned mark either as a trademark or part of a trademark, trade name, or part of a trade name, corporate name, email, domain name or part of a domain name or in any other manner which would result in passing off or any act of unfair competition and/or dilution, including resulting in confusion of any manner whatsoever, during the pendency of the instant suits.

- The above opinion was on a prima facie basis and shall not come in way of either of the parties at the stage of final adjudication of the suits

To read the complete Order, please click here.

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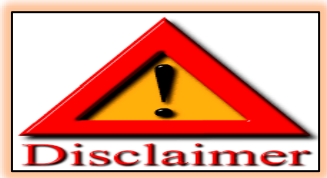

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Call us toll free to explore a topic or let us answer your questions

About Swift

Swift India Corporate Services LLP (“Swift”) (Formerly known as SwiftIndiaInc Corporate Services Private Limited) established in the year 2005, is an associate entity of Nishith Desai Associates — Legal & Tax Counseling Worldwide (legal and tax consulting firm).

We are a team of professionals with rich corporate, legal and secretarial backgrounds. We are a premier corporate compliance firm that caters to the needs and demands of our global clients. Swift aims to provide quick and pragmatic corporate solutions alongside high-quality compliances.

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