

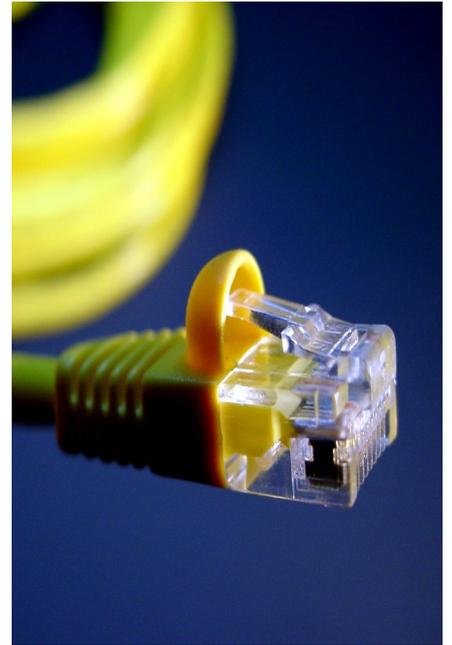


Advani & Co.

IT and Outsourcing

With lawyers at offices at Mumbai, Delhi and Pune, Advani and Co. is a new age law firm with advisory and dispute resolution practices in multiple practice areas. At Advani, through our practise goals, we have been able to **create and preserve value** in providing legal services. Towards this we recognize that businesses and individuals require substantive and procedural advisory work to commence their operations and subsequent enforcement to safeguard these rights.

Advani aims to provide these services promptly with particular emphasis on quality. We have a specialized focus towards commercial and business laws and regularly represent large Indian and Multinational Corporations.



Experience with technology concerns

Data Protection | User Generated Content | Privacy | Intermediary Liability | Outsourcing

To advise technology companies

and to represent them in court litigations is highly dependent on a keen insight into the business models as well understanding the technical background of the software and the hardware which is used. Today several diverse legal concerns are arising for IT Companies which include compliance with data protection and privacy laws, concerns as to liability flowing from user generated content and safeguarding ones intellectual property.

Our lawyers are well experienced with these areas of law and regularly advise technology companies. Having substantial experience in appearing before courts and tribunals they take care and caution to avoid and limit liability and the protractedness of litigation. Our focus is to provide simple and practical advise to our Clients for complex legal issues.



We recently advised one of India's largest Media Company's on its App submission to the Apple App Store and the Android Play Store.



Recent Representations

Some of our recent representations in the technology sector include:

1. Retained as legal counsel to india's largest digital content distributor of bollywood content. Regular work involves drafting and negotiating agreements for the exploitation of Intellectual Property through digital modes.
2. Assisting one of India's largest media conglomerates in multiple sub-missions of Apps to the Apple App Store and the Google Play Store. This included drafted agreements and privacy policies.
3. Advising one of India's largest website portals on the liability issues flowing from user generated content and redrafting their subscriber agreements and take down mechanism to bring it in compliance with Indian Law.
4. Drafting the privacy policy for the Indian Subsidiary of a large American Outsourcing company to bring it in compliance with Indian law.
5. Advising a company on the legality of bit level encryption implemented at its Indian facility.
6. Representing a social media website in Court on issues of intermediary liability in a copyright infringement suit.

Outsourcing

With the huge amount of offshoring work flowing into India there are concerns in several foreign countries and the EU regarding the data protection standards followed in India.

This is not a purely foreign concern and even Indian Companies have

found that their employees have been siphoning confidential data.

In the digital office environment legal protections for data protection have become increasingly important. Though India lacks any data privacy law, it has responded

ed with general provisions under the recently amended Information Technology Act, 2000 and penal laws. In the absence of a specific law a large part of data privacy is today being created through contract and confidentiality clauses.

Data Protection

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tion have become increasingly important. Though India lacks any data privacy law, it has responded with general provisions under the recently amended Information Technology Act, 2000 and penal laws.

This includes specific civil penalties and criminal sanctions which may be imposed for the negligent breach of data. Hence, now even companies are liable for the breach of data confi-

dentiality when they have been negligent in preventing its unauthorized disclosure.

At the same time in the absence of a specific law a large part of data privacy is today being created through contract and confidentiality clauses. Here contracts and data protection policies which apply internally to the company and to third party vendors when the data is shared becomes increasingly important.

Social Media and User Generated Content

With the rise of social media more and more web services are relying on user generated content to make their offerings more attractive. This user generated content presents its own unique risks and benefits.

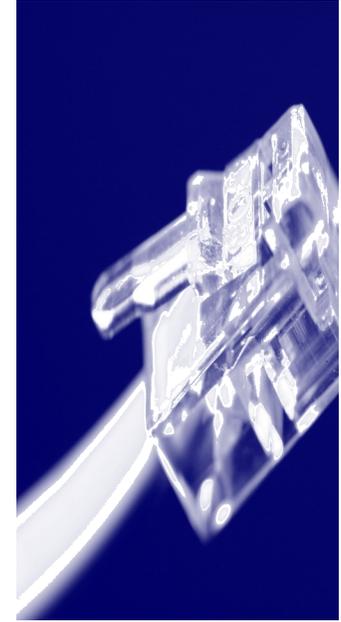
Beyond the Intellectual Property Rights which would vest naturally with the author, which would be the user, there is also the risk of the content being owned by a third party and being

used without permission. We understand and appreciate these risks and devise of documentation to disclaim liability and implied warranties as well as safeguard clients through indemnification agreements with subscribers.

There also has been a significant rise in litigation in this sector as more people go online and upload content whose legality is questioned under various provisions of law.

Though the Information Technology, 2000 provide limited safe harbors which exempt the liability of such service providers who are termed as intermediaries, this is conditioned on compliance with “due diligence” and a post notification take down.

Our lawyers are well experienced to represent our clients towards drawing up agreements and policies to prevent such litigation and eventual liability.



Privacy Regulations

The law of privacy in India is essentially derived as a public right through constitutional exposition. Here the application of the right to privacy as well as remedies for its breach is limited against the state and it does not extend to disputes between private parties.

However, this posi-

tion does not extend to credit reporting agencies, financial institutions and telecom service providers for whom specific sectoral privacy prohibitions have been created.

Even online service providers to provide a basic and minimum level of privacy, expected by subscribers,

are devising of limitations on disclosure and transfer of personally identifiable data.

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Intermediary Liability

Intermediary liability law in India has seen increasing amounts of activity as rights holders approach courts against transformative internet service providers who are alleged to be utilizing content without permission.

The Delhi High Court is seeing most of these filings where Super Cassettes Industries

has filed cases against, content without permission. The Delhi High Court is seeing most of these filings where Super Cassettes Industries has filed cases against, Google, Youtube, Myspace and major internet intermediaries.

Realising the chilling effect such litigation can have the legisla-

ture has recently amended the Information Technology Act, 2000 where Sec. 79 which deals with intermediary liability has been completely redrafted. Here the extent of immunities which are available to an intermediary have been considerably expanded.



Advani & Co.

Delhi | Mumbai | Pune



Advani & Co. finds mention in the Legal 500 which states that, we have a “*strong expertise in advising on transactions and infrastructure projects*”

We are also rated as one of the top Indian Law Firms in dispute resolution by the Legal 500 and Chambers and Partners.

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