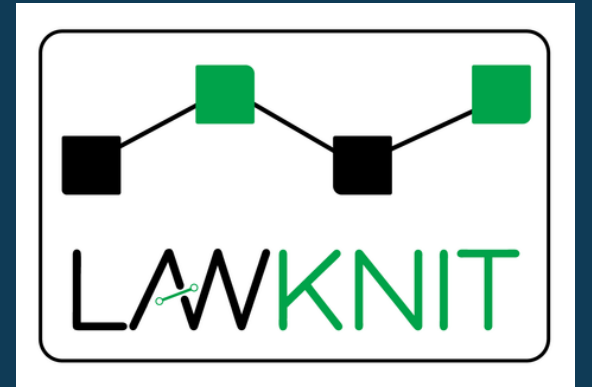


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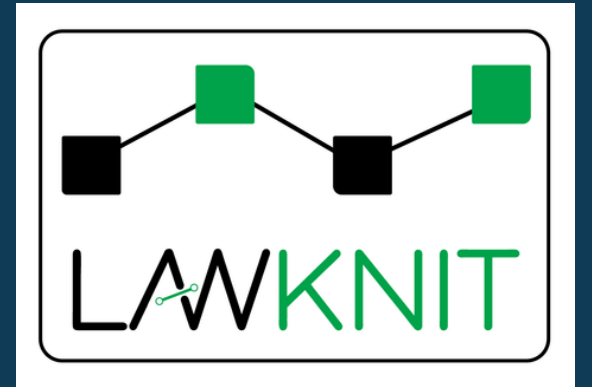
LAWKNIT ANALYSIS

GUIDELINES ON SELLING REFURBISHED PRODUCTS

SWIPE



02/06

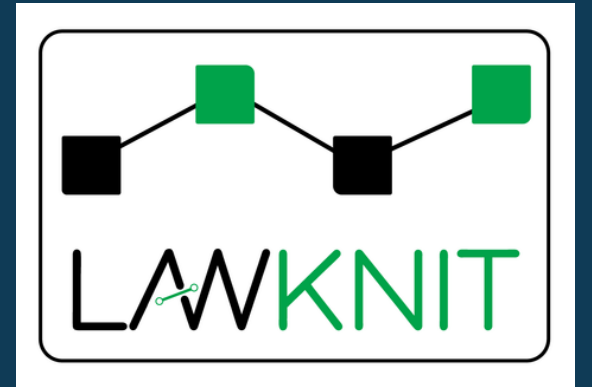


EXECUTIVE SUMMARY

- The sale of refurbished products is on rise including on e-commerce platforms.
- The Delhi High Court (“**Court**”) in the matter of *Seagate Technology LLC v Daichi International*, MANU/DE/3559/2024 has provided guidelines over sale of refurbished products.
- The Court analyzed the validity of import of capital goods for repairing under Foreign Trade Policy (“**FTP**”).
- The due diligence which e-commerce platforms and sellers need to conduct for selling refurbished products.

SWIPE FOR MORE

03/06

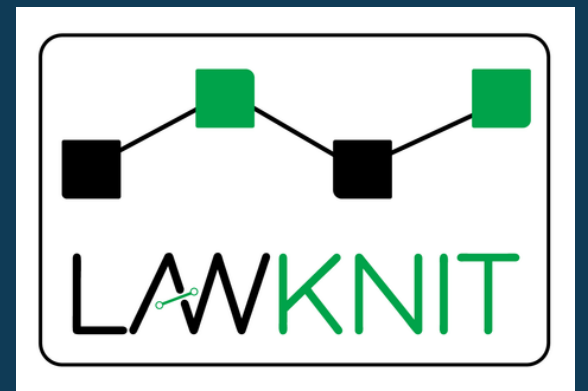


FACTS OF THE CASE

- Hard-Disk Drives (“**HDDs**”) mainly manufactured by the Seagate Technology LLC (“**Seagate**”) and Western Digital Technologies Inc. (“**WD**”) (collectively referred as “**Petitioner**”) was imported into India, after the end of their life span, and resold to the refurbishers.
- The brand name of the imported HDDs was rubbed and thereafter these HDDs were refurbished and repacked by these refurbishers under their own mark.
- The Petitioner consider this as an act of unlawful acquisition and claimed that the sale of the refurbished product after removing their name will be constituted as the impairment with Petitioner’s goods.

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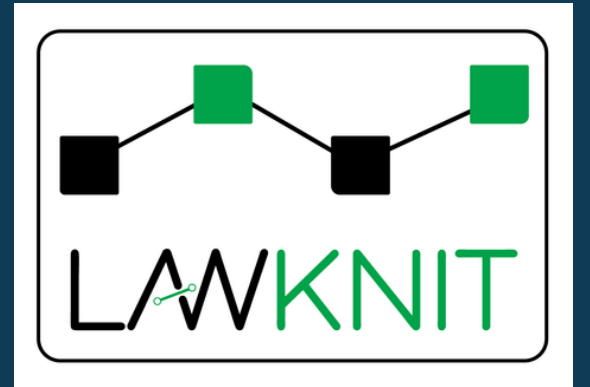
04/06



ISSUES

- Whether the import of HDDs or any other electronic goods into India for repairing or refurbishing is valid?
- Whether an act of re –selling or selling the HDDs as second-hand products tantamount to the violation of Trademark Act?
- Whether or not the sale of the refurbished HDDs after their repairing and repacking will be constituted as the impairment of the goods of the Petitioner?

SWIPE FOR MORE

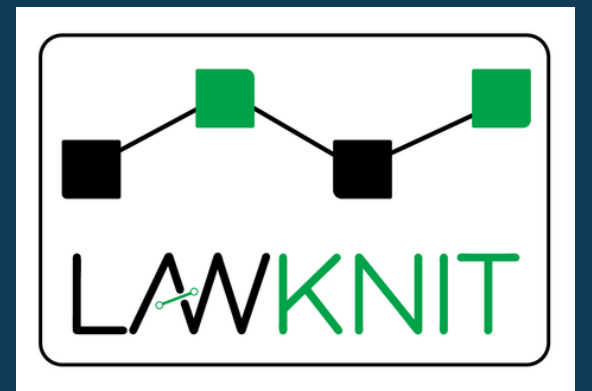


ORDER & OBSERVATIONS

- Import of capital goods for repairing is subject to the condition that the waste generated during the repair is disposed as per the environment, health and safety related laws of India.
- There is no law, regulation or policy which prohibits such importation of end-of-life products and subsequent sale thereof.
- The Court made full disclosure in relation to the refurbished products mandatory.
- Directions of Court for sellers of refurbished products :
 - (a) Packaging should identify the source of the product
 - (b) Refurbished goods cannot be sold without original mark of the manufacturer and such reference is to be made through their word mark and not the device mark
 - (c) Packaging must specify that there is no original manufacturer's warranty
 - (d) Packaging must specify on the front of packaging that the product is "Used and Refurbished"
 - (e) Statement as to extended warranty by the refurbisher
 - (f) Packaging must reflect an accurate description of the features
- All the abovementioned directions should be complied by sellers of refurbished products on promotional literature, website, e-commerce listings, brochures and manuals.

SWIPE FOR MORE

06/06



LAWKNIT ANALYSIS

- The judgment has brought clarity on the compliances in relation to the sale of refurbished goods.
- The refurbished goods cannot be sold without original mark of the manufacturer.
- The Court has led down the terms and guidelines for sale of refurbished products including on e-commerce platforms and provided the requirement of full disclosures and disclaimers.

In case of any queries/clarifications, please feel free to reach out to Mr. Arunabh Choudhary at arunabh@lawknit.co; Mr. Amol Apte at amol.apte@lawknit.co; Ms. Tanvi Muraleedharan at tanvi.muraleedharan@lawknit.co; Ms. Renu Sirothiya at renu.sirothiya@lawknit.co

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