

IPR&D SPARK NEWSLETTER

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LEGAL WATCH

New Federal Circuit Ruling Clarifies Obviousness-Type Double Patenting Post-Collect Decision

Contributor: **Christy T George**

Aug' 2024: During a ruling of *Allergan USA vs. MSN Labs*, the Federal Circuit clarified that later-filed, later-issued claims cannot invalidate earlier-filed, earlier-issued claims with the same priority date under obviousness-type double patenting (ODP). This decision builds on the *In re Collect* ruling, providing crucial guidance for patent holders. The court emphasized that the purpose of ODP is to prevent unjustified extensions of patent exclusivity. For more insights, check out the latest Evaluateserve article on navigating patent risks ([Source](#)).

LEGAL WATCH

Supreme People's Court Deals Blow to Sanofi in Patent Invalidation Rulings

Contributor: Subin Khullar

May' 24: China's Supreme People's Court invalidated Sanofi's patents for teriflunomide (Aubagio), a Multiple Sclerosis (MS) drug, following decisions by the China National Intellectual Property Administration (CNIPA). The court found the patents obvious and non-inventive, benefiting Chinese generic drugmakers. Sanofi's subsequent civil suit was dismissed. With marketing applications for generic teriflunomide tablets approved, the influx of generics is expected to significantly reduce Aubagio's price in China. Given the low reversal rate in China's retrial process, it is unlikely that Sanofi will successfully revive its patents through retrial ([Source](#)).

Delhi High Court Declares Boroline 'Well-known Trademark', Restrains Imitation of its 'Trade Dress'

Contributor: Subin Khullar

Aug' 24: The court ruled in favor of G D Pharmaceuticals Pvt Ltd, owner of Boroline antiseptic cream, against Cento Products (India) for selling a similar product, 'Borobeauty'. The court found 'Borobeauty' infringed on Boroline's trade dress and trademark. Cento Products was ordered to change its product's trade dress and trademark to be distinct from Boroline, avoid using the prefix 'BORO', and pay Rs 2 lakh in costs. The court also declared 'BOROLINE' a well-known trademark, directing its addition to the official list ([Source](#)).

Trademark Infringement: Burger King Loses Legal Battle Against Namesake Pune Eatery

Contributor: Subin Khullar

Aug' 24: Burger King Corporation lost a 13-year legal battle against a Pune-based eatery also named 'Burger King.' The Pune district court dismissed the US company's 2011 lawsuit seeking an injunction and Rs 20 lakh in damages for trademark infringement. The court ruled that the local eatery owned by Anahita and Shapoor Irani, operating since 1991-92, predated the US chain's 2014 entry into India. Judge Sunil Vedpathak found no evidence of customer confusion or actual damage. Both parties' claims for monetary compensation were denied, and the Iranis' allegations of harassment were unsupported by substantial proof ([Source](#)).



INTELLECTUAL PROPERTY

INDUSTRY NEWS

Boeing's \$72 Million Verdict Overturned: Trade Secret Identification Crucial in Legal Battles

Contributor: Mudit Mittal

Aug' 24: A federal judge in Delaware overturned a \$72 million jury verdict against Boeing, initially found liable for misappropriating trade secrets from Zunum Aero. Judge Robart ruled that Zunum failed to clearly identify its trade secrets and provide substantial evidence of misappropriation. Experts emphasize the importance of precise trade secret descriptions in litigation. Generally, jury verdicts are difficult to overturn, but the court found Zunum's evidence insufficient. Boeing welcomed the decision, while Zunum plans to appeal, needing to present more specific evidence. This case highlights the rigorous standards courts apply to trade secret claims, stressing the need for clear, substantiated evidence to support such allegations ([Source](#)).



Industry News

U.S. Government Funding Leads to Over 1,000 Patents for China-Based Researchers, Sparking Calls to Cancel or Renegotiate Agreement

Contributor: Christy T George

Aug' 24: Since 2010, U.S. government agencies, including the Defense Department and NASA, have funded research resulting in over 1000 patents for China-based inventors, particularly in biotechnology and semiconductors. This revelation has intensified calls to cancel or renegotiate the U.S.-China Science and Technology Agreement. Despite heightened U.S. concerns about national security, such patents dropped from 99 in 2019 to 61 in 2023. The agreement, once a stabilizing force, faces scrutiny over Beijing's growing military power and alleged IP theft. Another short-term extension is possible as renegotiations continue ([Source](#)).

India's Patent Orders in Legal Uncertainty: Hundreds of Thousands of Approvals Declared Void

Contributor: Harjinder Singh

Aug' 24: The Union Law Ministry and an Additional Solicitor General of India have declared hundreds of thousands of patent and trademark orders issued between October 2022 and March 2024 by the Controller General of Patents, Designs and Trade Marks (CGPDTM) as "legally unenforceable." These orders, made by outsourced employees hired through the Quality Council of India, violate the Trade Marks Act, 1999. The Calcutta High Court also ruled that hiring contractual employees for quasi-judicial functions is illegal, leading to the revocation of the outsourcing decision ([Source](#)).

WHO Launches MeDevIS to Boost Access to Medical Technologies

Contributor: Rani Holani

Jul' 24: WHO has introduced MeDevIS, an open-access platform for medical device information. Covering 2301 devices, it aids in the selection, procurement, and use of medical technologies for various health conditions. This platform simplifies access to reliable data, supporting global health decision-making and enhancing universal health coverage ([Source](#)).

Techno-Spotlight



Accelerating Discovery with Modular Chemistry and AI

Contributor: Rachna Gupta

Aug' 24: The commercialization of organic photovoltaics is hindered due to problems with stability. High-performance materials degrade when exposed to light, which is not what is needed in a solar cell. They can be made and installed in ways not possible with silicon and can convert heat and infrared light to energy as well, but the stability has been a problem since the 1980s. Now researchers have leveraged artificial intelligence to enhance the photostability of molecules for solar energy applications, achieving molecules four times more stable than previous ones ([Source](#)).

Key M&A/Strategic Alliances

Contributor: Rachna Gupta

Aug' 24 ([Source 1](#), [Source 2](#)):

- Sika has acquired Vinaldom, S.A.S in the Dominican Republic known for high quality products for concrete construction
- SABIC, signed a potential investment agreement with the Fujian government under the auspices of the Saudi Ministry of Energy, to build an engineering thermoplastics compounding plant in China's Fujian Province.

Jun' 24 ([Source 3](#); [Source 4](#)):

- Shell signs agreement to acquire Pavilion Energy. Headquartered in Singapore, Pavilion Energy's global energy business encompasses LNG trading, shipping, natural gas supply
- UPM and Nokian Tyres partner to revolutionize the tire industry by introducing the first concept tire with UPM BioMotion™ Renewable Functional Fillers

Cheaper, Greener: Manganese-Based Li-Ion Batteries Set to Transform EVs

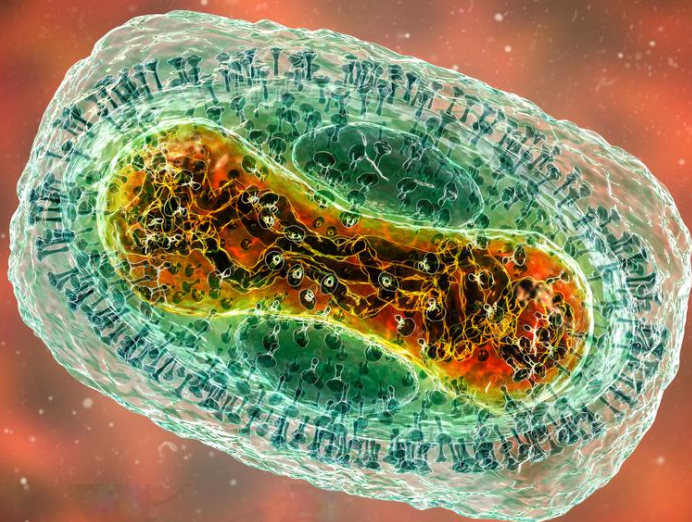
Contributor: Rachna Gupta

Aug' 24: Li-ion batteries are not new players in the field of rechargeable electronics, but there are always ways to innovate and improve already reliable methods. LiMnO₂ as an electrode material has been studied in the past but has always been limited by restrictive electrode performance. Recent innovations in manganese-based lithium-ion batteries has the potential to lead more efficient and durable power sources for electric vehicles, offering high energy density and stable performance without voltage decay ([Source](#)).

New Chemistry for Cooler Fabrics

Contributor: Rachna Gupta

Aug' 24 A new cooling fabric technology using a chalk-based coating can decrease temperatures by 8°F by reflecting sunlight. This eco-friendly solution offers a durable, energy-free cooling option suitable for various outdoor activities. This sustainable technology, using calcium carbonate and barium sulfate, reflects UV and near-infrared light, enhancing comfort without energy consumption ([Source](#)).



Mpox - The Next Pandemic?

Contributor: Akanksha Aggarwal

Aug'24: The current upsurge of mpox in parts of Africa has been declared public health emergency of international concern.

Roche is actively collaborating with governments, healthcare providers, and organizations to enhance global mpox laboratory capacity, developing diagnostic tests to combat the outbreak.

To detect the mpox virus, Roche developed three unique LightMix Modular Virus kits for use on either a LightCycler480 II Instrument, LightCycler PRO, or Cobas Z 480 Analyzer, as well as Cobas MPXV test for use on the Cobas 6800/8800 systems. WHO has also triggered the process for Emergency Use Listing for mpox vaccines ([Source](#)).

Boosting CAR-T Cell Therapy with CRISPR Technology

Contributor: Vatsal Garg

Aug'24: CRISPR/Cas9 technology has provided an effective approach to promoting the proliferation and persistence of CAR-T cells in the body. CRISPR screening identifies key regulators in CAR-T therapy. CRISPR screening has been applied to discover novel regulators of CAR-T cell performance in terms of proliferation, activation, potency, and exhaustion. Clinical trials using CRISPR-edited CAR-T cells are also carried out worldwide. The majority are under phase I, focusing on assessing the safety and efficiency of hematological malignancies ([Source](#)).

PfizerForAll - Digital Platform to Simplify Access to Healthcare

Contributor: Rani Holani

Aug'24: The platform provides an integrated experience for managing health and wellness and operate within the US healthcare system. It is designed for patients with migraine, COVID-19 or flu, and adults seeking vaccines for preventable diseases, including COVID-19, flu, RSV and pneumococcal pneumonia. End-to-end offering helps people to connect with a qualified healthcare professional the same day, find and book vaccines, receive tests and medications at home or via a preferred pharmacy, and find savings and support if prescribed a Pfizer medicine ([Source](#)).

SHL Medical Launches Elexy

Contributor: Rani Holani

Aug'24: SHL debuts first reusable electromechanical device – Elexy. It features a power unit that can be reused to optimize carbon footprint for chronic disease treatments requiring multiple injections. The reusable power unit seamlessly integrates with disposable drug cassettes that can accommodate both cartridges (3.0 mL and 5.0 mL) and pre-filled syringes (1.0 mL and 2.25 mL). The Elexy device also provides connectivity through cellular and Bluetooth options to collect injection-related data – injection time-stamp, duration, and injection behaviors such as early lift ([Source](#)).



Samsung Takeover of Nokia Mobile would Show Futility of Open RAN

Contributor: Christy T George

Aug' 24: Europe risks losing a major mobile equipment vendor as Nokia is reportedly in talks with Samsung about selling its mobile networks business group, valued at around \$10 billion. This potential sale would significantly impact Nokia, which derives 44% of its revenue from this unit, and elevate Samsung to a leading 5G network vendor globally. Nokia has struggled with declining sales and profitability, facing setbacks like losing major contracts to competitors. While Nokia has not confirmed the talks, the move could reshape the telecom industry, reducing competition and potentially alleviating Nokia's financial struggles. Regulatory authorities may not oppose the deal, but operators might ([Source](#)).

Researchers Demonstrate Metasurfaces that Control Thermal Radiation in Unprecedented Ways

Contributor: Mukesh Kumar

Aug' 24: Researchers at CUNY ASRC have demonstrated that metasurfaces, two-dimensional materials structured at the nanoscale, can precisely control the optical properties of thermal radiation generated within the metasurface itself. This breakthrough, published in Nature Nanotechnology, paves the way for creating compact, inexpensive, and portable light sources, crucial for space-based applications, field research, and military operations. The team showed that a single-layer metasurface could shape thermal radiation, achieving control over frequencies, polarization, and wavefront shapes. This innovation allows for custom light sources without external laser setups, enhancing applications like LEDs. Supported by various research foundations, this work represents a significant step towards advanced, portable light sources ([Source](#)).

Quantum Breakthrough: Scientists Use Sound Waves to Enable the Future of the Internet

Contributor: Mukesh Kumar

Aug' 24: Researchers at the University of Rochester have developed a method to couple light with surface acoustic waves, crucial for quantum internet development. Published in Nature Communications, the study uses surface acoustic waves—vibrations on material surfaces—to convert quantum information in qubits to optical fields for long-distance transmission. The team designed acoustic cavities to enhance light-sound interactions without mechanical contact, making the devices simple to fabricate, small, and capable of handling large power. This technique has potential applications in hybrid quantum computing, spectroscopy, and sensors, offering a significant advancement in quantum technology ([Source](#)).

Qubit Coherence Decay Traced to Thermal Dissipation

Contributor: Mukesh Kumar

Aug' 24: Physicists from Aalto University in Finland, along with international collaborators, have demonstrated that superconducting qubit coherence loss can be directly measured as thermal dissipation in the electrical circuit holding the qubit. Superconducting Josephson junctions, essential for qubits, are highly efficient conductors of electricity. The study addresses the unresolved question of where thermal dissipation occurs in qubits. By using an ultrasensitive thermal absorber, the team measured weak radiation emitted from a single Josephson junction, tracing energy loss to thermal radiation. The research, published in Nature Nanotechnology, involved collaboration with institutions in the USA, Denmark, and Spain, and was supported by Finland's national research infrastructure and the Research Council of Finland ([Source](#)).

Japan Tobacco to Acquire Vector Group

Contributor: Neha Negi

Aug' 24: The JT Group will acquire Vector Group (VGR), the fourth largest tobacco company in the United States. Based on the purchase agreement, the JT Group will conduct a tender offer for all outstanding shares of VGR through Vapor Merger Sub, an entity established specifically for this acquisition ([Source](#)).

U.S. Court Reverses 'Elf' Trademark Suit

Contributor: Neha Negi

Aug' 24: A ban on a Chinese company selling "Elfbar" vapes can't stand because a district court failed to analyze whether the rightsholder's use of "Elf" on an illegal product negated its trademark rights, the Federal Circuit court stated. "Elfbar" seller Shenzhen Weiboli Technology Co. Ltd. argued the "unlawful use doctrine" precluded a preliminary injunction as plaintiff VPR Brands LP failed to clear its "new tobacco product" with the government as required under federal law ([Source](#)).

Eastern Sells Factory to PMI

Contributor: Neha Negi

Aug' 24: Eastern Co. will sell the land, buildings and currently rented equipment of its Factory No. 9 to United Tobacco Co. (UTC), a subsidiary of Philip Morris International, for EGP1.58 billion (\$32.66 million) ([Source](#)).

JUUL's Patent Lawsuit Against NJOY (Altria)

Contributor: Neha Negi

Aug' 24: An administrative judge issued a notification supporting JUUL's accusations in a lawsuit and recommended issuing an exclusion order to ban NJOY ACE products from being imported into the United States ([Source](#)).

PMI and KT&G to Partner on Submissions

Contributor: Neha Negi

Aug' 24: Philip Morris International and KT&G will collaborate on regulatory submissions for KT&G heat-not-burn products in the United States. The companies have signed a memorandum of understanding. On Jan. 30, 2023, PMI obtained exclusive rights to commercialize KT&G's smoke-free products outside South Korea. KT&G's new platform products are expected to be launched first outside the U.S. Thereafter, the partners plan to work on a premarket tobacco product application submission for review by the U.S. Food and Drug Administration ([Source](#)).

Helme Tobacco Returns

Contributor: Neha Negi

Aug' 24: American international tobacco company. Swisher has rebranded its smokeless tobacco portfolio with the return of the company's Helme Tobacco Co ([Source](#)).

BAT Launches New Vape "VuseS Go" in Korea.

Contributor: Neha Negi

Aug' 24: "VuseS Go" uses a closed system and contains natural nicotine. Since the Vuse line's launch in the South Korean market last July, the brand has accumulated sales of over 1 million units in just six months ([Source](#)).

Popular Vape Brands Lost Mary, Elux, and Vapes Bars Debut Nicotine Pouches in UK

Contributor: Neha Negi

Aug' 24: The three new nicotine pouch products offer a variety of flavors and nicotine concentrations to meet personalized needs. They come in portable packaging containing 20 pouches each, making them convenient for on-the-go use ([Source](#)).

PepsiCo Cracks Gen Z Loyalty Code

Contributor: Tejasvi Sinha

Aug' 24: PepsiCo is working to understand Gen Z's behavior, who are **digitally native but prefer in-store experiences**. The company's **Pepviz data science practice** provides insights to retailers, helping them identify growth opportunities.

Gen Z are twice as likely to shop on mobile devices as millennials, yet prefer pickup over delivery and browse in-store. PepsiCo's **Starry brand** launched a series of marketing campaigns to help Starry to achieve 47% general market awareness and 53% awareness among Gen Z.

PepsiCo is developing **phygital environments** through both media and technology to marry the best of **personalized social experiences, digital discovery, and in-store activations**. It is also working with retailers to improve product placement, optimizing it for dayparts to unlock growth ([Source](#)).

Manufacturers Likely Cybersecurity Targets, Say Experts: Tips & Strategies for Fortifying CPG IT Systems

Contributor: Tejasvi Sinha

Aug' 24: Consumer goods companies, like Clorox and 3M, are increasing cybersecurity investments to protect against growing threats. Experts identify **hackers, corporate espionage, and insider threats** as major concerns and recommends focusing on **operational technology (OT) and supply chain risks**. OT environments are often soft targets for attackers and can be shut down to restore operations.

To fortify IT systems, implementing foundational capabilities such as **IT asset management, lifecycle management, identity and access management (IAM), vulnerability management, and third-party risk** can improve security posture. Additionally, building an **incident response plan, phishing simulations and board crisis training** can help reduce risks ([Source](#)).

India Emerges as Next Big Growth Bet for Packaged Goods Giants

Contributor: Kanika Banga

Aug' 24: India's economy is expanding at the fastest pace among major emerging markets, making it a prime target for companies to fill the growth vacuum left by China's uneven recovery.

To tap into India's vast population and **untapped rural market**, brands are launching **new flavors and size variants** of their products. India's diverse palate and growing consumer demand are making it an attractive market for packaged goods giants.

India's **growing middle class, with increasing disposable income**, is also driving demand for packaged goods. According to Euromonitor, the Indian packaged food market is expected to grow at a CAGR of 14.1% from 2020 to 2025.

Furthermore, the Indian government's initiatives such as **"Make in India" and "Ease of Doing Business"** are creating a favorable business environment for players looking to invest in the country ([Source](#)).

Plastic Pollution in a Bottle: The Hidden Threat of Microbeads

Contributor: Kanika Banga

Aug' 24: Researchers at Cochin University discovered that **microbeads, a type of microplastic**, are present in 45% of Indian personal care products, including face washes and shower gels. The study warns that the tiny plastics can cause harm to humans and wildlife, and recommends **better labeling, natural substitutes, or a ban on microbeads**.

The microbeads constitute 93% of the primary **microplastic pollution in oceans**, and that they can act as vectors for other contaminants like poisonous metals.

The Indian government has not yet responded to the findings, but the researchers hope to prompt action to address the issue ([Source](#)).

FDA Bids Farewell to BVO: A Step Towards Safer Beverages

Contributor: Hansrabha Mudgal

Jul' 24: The FDA revoked the use of brominated vegetable oil (BVO) in food, effective August 2, citing safety concerns. BVO, used in some citrus drinks, poses health risks. It was previously banned in the UK, India, EU, and Japan. Companies like PepsiCo and Coca-Cola have already phased out BVO. This decision marks a significant step towards safer food additives ([Source](#)).

What is Greenwashing? How is it Misleading?

Contributor: Bhavya Budhiraja

Jul' 24: Greenwashing involves making false or misleading claims about a product's environmental benefits to deceive consumers. Terms like "sustainable" and "eco-friendly" create a false green image. The cosmetic industry uses terms like "cruelty-free" and "organic" to mislead. Brands like EcoBeauty use the Greenwashing Index, while OrganicGlow seeks organic certification. India's Central Consumer Protection Authority has drafted guidelines, but strict enforcement is needed. Genuine sustainability should be prioritized ([Source 1](#); [Source 2](#)).

Hidden Dangers in Mushroom Gummies: Unveiling the Risks of Undisclosed Ingredients

Contributor: Harjinder Singh

Jul' 24: Experts warn that mushroom gummies marketed for brain enhancement may contain harmful, undisclosed ingredients, including illicit psilocybin. In Virginia, five individuals, including a 3-year-old, fell ill after consumption. Lab analysis found psilocybin, caffeine, ephedrine, and kratom in three out of five brands. The lack of regulation and accurate labeling poses significant consumer risks, highlighting the need for proper oversight and transparency ([Source](#)).

Safety Concerns Prompt Recall of Olaparib, Allegra, and Combiflam in India

Contributor: Basharat Ahmad Sofi

Jul' 24: The Drug Controller General of India (DCGI) has mandated the withdrawal of Olaparib, a cancer treatment, due to safety concerns and adverse effects. Healthcare providers must discontinue its use immediately. Sanofi has also recalled specific batches of Allegra and Combiflam suspensions in India due to potential microbiological contamination. The recall affects batches from 2022 to 2024, with further investigations underway ([Source 1](#); [Source 2](#)).

Ban on BPA in European Food Contact Materials Moves Forward Another Step

Contributor: Akshay Jawale

Jul' 24: The EU Expert Committee approved a proposal to ban bisphenol A (BPA) in food contact materials due to its harmful effects on the immune system. The ban affects packaging, reusable plastic bottles, and kitchenware, with exceptions for large tanks and filtration devices. Bisphenol-A diglycidyl ether (BADGE) is allowed if free of residual BPA. Other harmful bisphenols like BPS and BPAF are also banned. The ban, pending final approval, will be enacted by the end of 2024 with transition periods for compliance ([Source](#)).

Do you Think the Benefits of AI are Significant Enough to Outweigh its Harmful Effect on the Environment?

Contributor: Akshay Jawale

Aug' 24: Recent AI breakthroughs have revolutionized sectors like healthcare, finance, and marketing, automating complex processes. However, the substantial computing power and vast datasets required raise ecological and social concerns. The European Commission's AI Act, adopted on February 2, 2024, introduces risk assessment and transparency measures but overlooks AI's ecological impact. AI's growing model sizes and energy consumption highlight the need for sustainable practices. Balancing innovation with environmental responsibility is crucial for AI's future ([Source 1](#); [Source 2](#)).

Meat and Diabetes: A Global Concern for Public Health

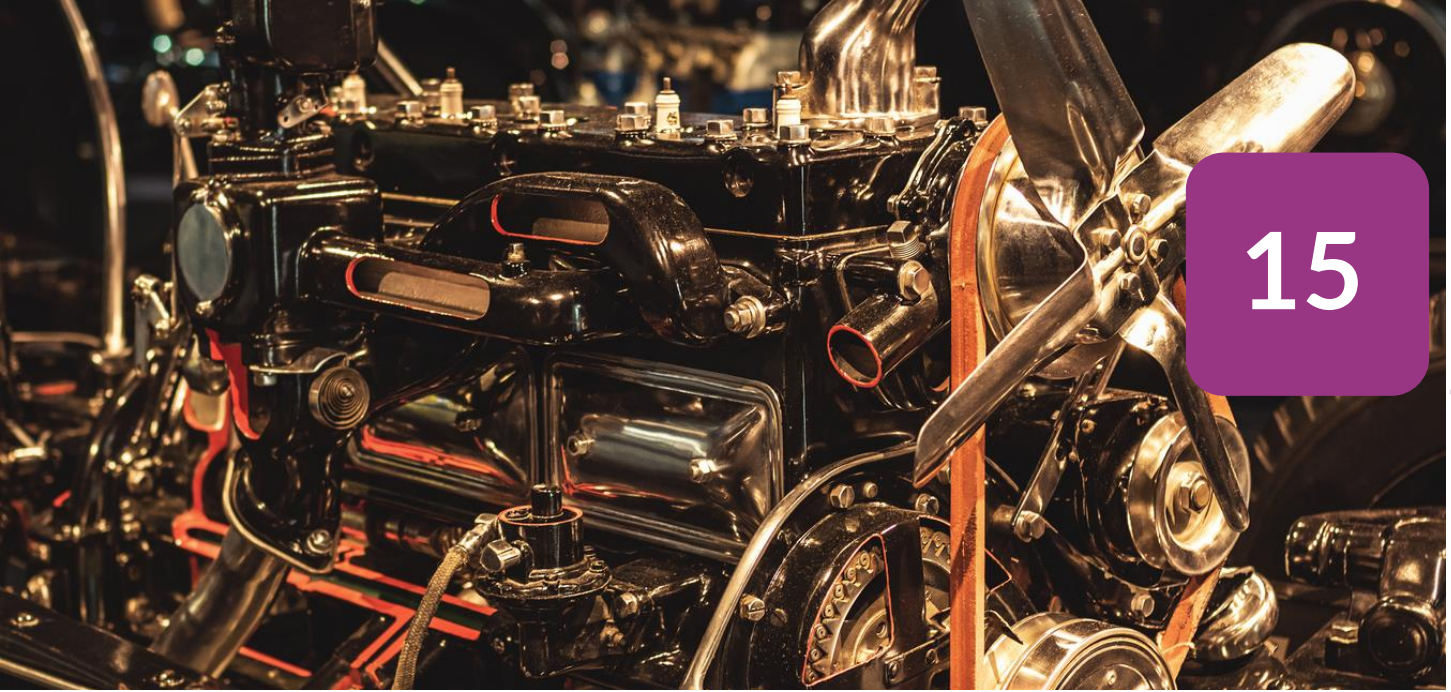
Contributor: Anuradha Sharma

Aug' 24: A worldwide study involving 31 cohorts has found that consuming meat, especially processed meat, unprocessed red meat and poultry, increases the risk of developing type 2 diabetes. This might be because red and processed meats tend to be higher in saturated fats than in unsaturated fats, a composition associated with greater insulin resistance, which can lead to Type 2 diabetes. The findings were consistent across regions, including North America, Europe, and Western Pacific. The study suggests that reducing meat consumption is important for public health and should be considered in dietary guidelines ([Source](#)).

FDA's Draft Guidance on Predetermined Change Control Plans: A New Era for Device Modifications

Contributor: Latika Sharma

Jun' 24: The U.S. FDA released a draft guidance on August 22, 2024, under the Food and Drug Omnibus Reform Act of 2022, amending the FD&C Act to include section 515C on Predetermined Change Control Plans (PCCPs). This allows medical device manufacturers to pre-specify modifications, ensuring safety and effectiveness without multiple submissions. PCCPs cover design, software, labeling, sterilization, and more ([Source](#)).



'World's Largest' 30MW Flywheel Energy Storage Project Connects to Grid in China

Contributor: Nitesh Kumar

Sep' 2024: The Dinglun Flywheel Energy Storage Power Station in Changzhi City, Shanxi Province, China, has been connected to the grid, making it the world's largest flywheel energy storage system with a 30MW capacity. Developed by Shenzhen Energy Group, the project features 120 high-speed magnetic levitation flywheel units. Construction began in June 2023, and it is part of pilot demonstration projects in Shanxi Province for grid frequency regulation. The project had a total investment of RMB 340 million (US\$48.1 million) ([Source](#)).

MG Windsor EV: A Game Changer with Battery-as-a-Service Model

Contributor: Sachin Patel

Sep' 2024: In a groundbreaking move aimed at enhancing the accessibility of electric vehicles, MG has introduced the Windsor, its third EV, featuring an innovative battery-as-a-service (BaaS) program ([Source](#)).

Porsche's Idea for a Six-Stroke Internal Combustion Engine Looks Brilliant

Contributor: Nitesh Kumar

Sep' 2024: Porsche has unveiled a concept for a six-stroke combustion engine, adding an extra compression and power stroke to the traditional four-stroke process. This design, detailed in a patent, involves a crankshaft mechanism that alters piston travel, potentially increasing power and efficiency by changing the power stroke ratio from one in four to one in three. While the added complexity may pose challenges, the innovation indicates Porsche's efforts to enhance combustion engine performance amidst the shift towards electric vehicles ([Source](#)).

Ford Patents System for In-Vehicle Advertisements

Contributor: Nitesh Kumar

Sep' 2024: Ford has filed a patent for a system that uses various data points, such as destination, route, speed, and travel history, to display targeted ads on vehicle screens. The system could monitor in-car conversations and other acoustic data to adjust the number and type of ads shown, raising privacy concerns. While online ads often subsidize free services, it's unclear if Ford's system would offer similar benefits, potentially just increasing the automaker's profits ([Source](#)).



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