

IPR NEWS

IPR News – General

India will not accept any intellectual property talks or obligations outside WTO

The Indian Commerce and Industry minister has said that India will not accept any attempt made by groups of countries to discuss intellectual property rights outside the multilateral forum of the WTO. Responding to questions on India's position on the proposed Anti-Counterfeiting Trade Agreement (ACTA), the minister said a few countries cannot get together and try to change what is and will always be a multilateral regime, namely, the TRIPS Agreement. India is opposed to the ACTA being discussed between countries such as the US, Japan, Australia, the EU, Canada and New Zealand on the ground that the stringent intellectual property agreement being drafted would affect supplies from non-member countries too.

On a similar note, India will strictly stick to domestic law and its current international commitments on intellectual property rights at the Doha Round of world trade negotiations, especially in the context of pharmaceutical products. This was decided at a meeting of the Trade and Economic Relations Committee headed by the Prime Minister, Manmohan Singh. The Prime Minister has directed trade negotiators that the Indian side should not take on any obligation beyond the current TRIPS and Indian laws governing intellectual property rights. This was following concerns raised by various quarters about the Indian stand on issues on intellectual property rights, especially in the context of the Indian pharmaceutical products according to an official statement (<http://articles.economicstimes.indiatimes.com>, <http://www.domain-b.com>).

Intellectual Property Association of South India launched

Madras High Court Judge, Justice P Jyothimani was eloquent on the need for creating more awareness about intellectual property rights, trademarks and patents to help the growth of the country's economy.

Speaking on the occasion of inauguration of Intellectual Property Association of South India (IPASI), he said seminars and educative workshops should be conducted on trademarks, patents, copyrights and designs. Besides, better intellectual property (IP) support systems should be made available to micro, small and medium scale industries, he said. The inauguration of IPASI, formed by Chennai-based practitioners specializing in intellectual property laws, coincided with the World Intellectual Property Day. M S Bharat Ram, Secretary of IPASI, said there was a long felt need for a collective and democratic body to represent the interests of all members in the field of IP law, including lawyers, patent agents and academia. Chennai has been the hub for many Intellectual Property offices, including the Trademark and Patent Office catering to the Southern States of Karnataka, Andhra Pradesh, Kerala, Tamil Nadu, Union Territories of Pondicherry and Lakshwadeep Islands. Further, the Intellectual Property Appellate Board and the Geographical Indication Registry were head quartered in Chennai. The primary objective of the association was to promote understanding, unity and development amongst all the persons practising in the field of intellectual property. The association was looking to build strong relations with the judiciary, academic community and industry in furthering its objectives (<http://ibnlive.in.com>).

IPAB centres likely to come up in Mumbai, Delhi and Kolkata

The government may need to set up permanent centres of the country's nodal body monitoring disputes related to intellectual property rights and patents in Delhi, Mumbai and Kolkata to expedite resolution of cases. The Delhi High Court (HC) has asked the Delhi HC Bar Association to 'advise the ministry concerned' for setting up permanent centres of Intellectual Property Appellate Board (IPAB) in these three cities. This follows a public interest litigation by a group of lawyers, who

complained about the logistical delays in resolving disputes as IPAB's documents need to be transferred from the main centre in Chennai to the circuit centres each time a dispute arises (<http://articles.economictimes.indiatimes.com>).

Geographical Indication statistics

The Geographical Indications (GI) Registry at Chennai has received about 230 applications for registration of GI (as on 4 January, 2011); out of which 146 were granted. Seven applications have been merged with the granted GIs as being identical. Besides few others that have been refused, abandoned, etc., there are still 67 GI applications for registration pending at the GI Registry. Rest of the applications are under various stages of registration (<http://www.sinapseblog.com>).

Patent News

India opposes US proposal to implement global patents

India has opposed the US proposal for global patents, saying such harmonization compromised the country's sovereignty. In its note, the Department of Industrial Policy and Promotion said, that patents are territorial rights that are awarded after it is evaluated that innovation satisfies the threshold of inventive step set by the patent law of the concerned country. Patent harmonization was not acceptable since it compromised the sovereignty of the country and different countries have enacted different patent laws depending on their level of development. The rationale behind the US proposal is stated to be the need to reduce pendency in intellectual property offices across the world. According to the proposal, any patent application that is examined in consultation by two or more offices and found to be suitable for award of a patent should be considered a fit case for patenting by all other members of the group. Based on this rationale, the US has proposed global patents, which should be granted unless objections are raised against the application within a stipulated period. The proposal follows a number of measures being taken by prominent intellectual property offices like the US patent and trademark office, the European patent office, and the Japan patent office to fast-track examination and grant of patents. The US proposal has not been accepted by the developing countries including India, the note said, adding India's

reservation that any harmonization attempt would reduce the policy space available to developing countries and affect flexibilities provided under TRIPS as had been reiterated in WIPO meetings (<http://www.mydigitalfc.com>).

Taiwan to set up intellectual property bank

Taiwan is planning to set up an intellectual property bank in the light of constant suing of Taiwan-based companies by foreign firms for patent infringement as announced by its Ministry of Economic Affairs (MOEA). Accusing competitors of stealing patents has become a way for international companies to compete with each other these days and large-scale Taiwan-based firms have been the constant targets of foreign competitors. The intellectual property bank is scheduled to be set up in June 2011 under the supervision of Taiwan's semi-official Industrial Technology Research Institute (ITRI). The bank will provide 'protective shield' for Taiwan-based firms by building patent portfolios and providing legal advice. The goal is to attract a total capital of NT\$ 500 million (US\$ 17.24 million) from venture capital firms and various companies. The bank will be privately-owned as it will receive less than 30 percent funding from the government. The bank will seek to purchase patents that are likely to be beneficial to Taiwan-based firms in the international market. Local companies will then have the option to buy the patents from the bank in order to gain a much-needed competitive edge (<http://focustaiwan.tw>).

Israel solidifies standing as patent power

A recent report by the World Intellectual Property Organization (WIPO) revealed that Israel is a virtual world power when it comes to inventions and patents. WIPO data ranked Israel the fourth most prolific nation in the world in its invention-per-resident ratio.

The data suggests that every Israeli is responsible for coming up with 0.17 inventions a year. The top three WIPO countries are Finland, with 0.21 inventions per-resident a year, Japan (0.22) and Sweden (0.22). Israel is followed by South Korea, the United States, Britain, Australia, France and Canada.

In 2010, the United States was the country whose residents registered the most patents (44,800), followed by Japan, Germany, China and South Korea. Israel was ranked 16th on the overall list in 2010, with 1,480 patents (<http://www.ynetnews.com>).

EU patent filings reach record in 2010

The European Patent Office has announced an increase in patent filings to record levels in 2010. The EPO, an alliance of the European Union's 27 members and 11 neighboring nations, received 235,000 filings in 2010, up 11 per cent from 2009, and the highest number ever in the organization's 34-year history.

According to EPO's President, the EU and the US are nearly back to their levels of patenting before the economic crisis after a two-year slump. This, combined with a massive rise in patent applications from Asia, led by China, has made 2010 a record year at the EPO. The number of filings from Chinese companies grew 54 per cent, to 13,000 in 2010.

The top three companies are European. Germany's Siemens AG, with 2,135 patent filings, and BASF AG, with 1,707, are first and third; Philips NV, with 1,765, is second. The EU accounted for 35 per cent of all filings, the highest of any region. The fields with the most patents are also those dominated by Europeans. Medical technology was first, with 10,500 submissions, followed by computer technology with 8,300 and electrical machinery at 8,200. Telecoms and automobiles have slumped. However, the percentage of patents successfully granted was 43 per cent down from 50 per cent a few years ago.

The European Commission is also due to publish in mid 2011, new rules allowing companies to register in 25 EU countries at once through the EPO. Spain and Italy have declined to participate in the scheme because its working languages are English, French and German. Currently, after applying to the EPO for patent protection, companies have to then register their patent in the EU countries where they want protection (<http://online.wsj.com>).

Public details of patented drugs to be made available

The Indian government will make public details of every medicine patented in the country to bring transparency - a move that will also help Indian drugmakers to challenge patent holders and sell low-cost versions of high-priced patented drugs.

The Controller General of Patents, P H Kurien said that the details would be made available soon. At present, it is difficult to get such information on patented medicines but once the system is in place, one can simply get access to details by using the patent number of the product. He added that as of March 2010, around 34,000 patents were in force in

India of which only 12-13 per cent were working. The information to be disclosed would include if the patent is working (used), quantum of products sold, imported or locally made, total sales and whether the firm is adequately able to supply to meet requirements of local patients. These are mandatory items of information that a patent holder needs to submit to the government.

The details that would be made publicly available would be particularly useful for health activists and generic drugmakers to check whether patent holders are using their sole marketing rights to meet medicine demand of patients. If not, a generic drugmaker can seek 'compulsory licensing', a provision that allows generic company to legally make and sell cheaper version of the medicine under certain conditions.

Industry experts have said this public disclosure initiative should not be restricted to patented products and similar transparency should be brought in for other expensive cancer and HIV drugs (<http://articles.economictimes.indiatimes.com>).

Fast-track patents at USPTO

The US Patent and Trademark Office will begin offering fast-track patents for a fee starting May 2011, a move aimed at reducing a growing backlog of more than 700,000 applications, the federal agency has announced. For an extra US\$ 4,000, on top of a base filing fee of US\$ 1,090, the USPTO has said it will process applications within 12 months, about a third of the time it takes to process most patents under the current system.

Fast-track applications will be limited to 10,000 filers for the fiscal year ending in September, when the limit will be reassessed. The move is part of a new three-track approach that includes a delayed filing track for applicants whose products do not need to be rushed to market, along with the standard track. The three-track approach is meant to provide 'different processing options that are more responsive to the real-world needs of applicants' according to USPTO Director.

Pending the outcome of legislation, currently in the House, that would allow the office to retain fees and boost funding, the fast-track program could be available to smaller firms for half the price. Without the discount, small-business owners said that they lack the resources to pursue fast-track applications under the program, giving larger firms an edge.

Both the House and Senate bills would also shift to a first-to-file patent system from the current first-to-invent system, a move that small-business owners say would further put them at a disadvantage since they often need to be further into the development stage to attract funding before seeking a patent (<http://blogs.wsj.com>).

Microsoft seeks to weaken software patent rules at US Supreme Court

A software patent case in which Microsoft was accused of wilfully infringing a patent on XML - and forced to suspend sales of Word and Office - is certain to reach the US Supreme Court soon and could have a wide-ranging effect on future litigation.

Microsoft has brought the case to the US Supreme Court, where it is asking the court to lower the standard of proof required for challenges to the validity of a properly issued patent. At present, the company looking to overturn a patent has to be able to show 'clear and convincing' evidence; Microsoft wants to shift that in favour of the overturning complainant, to a 'preponderance' of evidence.

If Microsoft wins, it could weaken the use of software patents in a number of cases. Microsoft contends that it is too hard to overturn a software patent granted in error by the US Patent Office. The Chairman of i4i has said that it is 'patent law at a crossroads' and that 'the implications affect every consumer in every business at every level'. i4i has also added that weakening the standard of proof to overturn patents would deter companies and inventors from being innovative. Presently, about half of patent lawsuits end with the patent being ruled invalid. If Microsoft (which itself owns a large number of patents, including software patents) prevails, that proportion will rise.

The dispute between Microsoft and i4i is a long-running one. In March 2007, i4i sued Microsoft for willful infringement of its patent on the use of XML (Extensible Markup Language, a superset of markup languages such as the Web's HTML) in Word for custom applications. That led to a ban on the sale in the US of Word 2003, the version of Microsoft's program judged to be directly infringing (other versions were not infringing).

The key element of the i4i XML product is that it takes large amounts of unstructured data, and then wraps it in XML to make it more usable and useful.

Among its users are the US Patent Office, US Air Force and number of pharmaceutical companies, including Bayer and Novo Nordisk (<http://www.guardian.co.uk>).

IIT-Madras gets award for highest number of patents

The Indian Institute of Technology (Madras) has secured the award for the educational institution or university securing the highest number of patents in the last five years. The institute has filed 78 patents during the period. The award was instituted by the Confederation of Indian Industries in collaboration with the central Department of Industrial Policy and Promotion and the Indian Intellectual Property Office.

Among the other awardees was IIT-M alumnus Lalit Mahajan, who got the award for an individual securing the highest number of patents in the last five years. The institute has definite policy guidelines with regard to intellectual property and how it is shared with collaborators. There is a hassle-free, transparent and easy procedure internally to facilitate the patenting process. The Centre for Industrial Consultancy and Industrial Research enables these activities in the institute (<http://articles.timesofindia.indiatimes.com>).

Copyright and Trademark News

Belgian court rules that Google infringes copyright when its services link to newspaper sites

A Belgian appeals court has upheld an earlier ruling that Google infringes on newspapers' copyright when its services display and link to content from newspaper websites. Google faces a fine of roughly €25,000 for every day it fails to comply with the court judgment, the report said. The ruling applies to French newspapers. Google's search engine offers links to the websites it indexes but also to 'cached' copies of those pages. The copies are stored on Google's own servers.

Copiepresse, an agency acting for newspapers, sued Google on behalf of the newspapers in 2006 alleging that Google's services infringed the papers' copyright. The newspapers argued that they were losing online subscriptions and advertising revenue because Google was posting free snippets of the stories and links to the full article on Google News.

A Belgian judge ruled that Google had to remove all the content referring to Belgian newspaper stories from its services. Google, however, maintained that it

linked to external content in compliance with copyright laws. According to a Google spokesperson, referral is the common practice of search engines, Google News and just about everyone on the Internet and that they remained committed to work with publishers, and continue to seek new ways to generate revenue for the online distribution of news (<http://www.out-law.com>).

LimeWire to pay record labels US\$ 105 million, ends suit

The operators of LimeWire agreed to pay record companies US\$ 105 million, ending a US federal trial over copyright infringement damages owed by the once popular but now defunct file-sharing service. The settlement with 13 record companies, including labels owned by Sony Corp, Vivendi SA, Warner Music Group Corp and Citigroup Inc's EMI Group, followed mediation, and ends nearly five years of litigation. US District Judge Kimba Wood in Manhattan in 2010 had ruled that LimeWire's parents, Lime Group and Lime Wire LLC, wrongfully assisted users in pirating digital recordings and shut down LimeWire leaving open the question of damages that could have exceeded US\$ 1 billion on roughly 10,000 recordings released since 1972. Founded in 2000, LimeWire has been a thorn for record companies because millions of fans used it as an easy means to find and download music for free (<http://www.reuters.com>).

China's Baidu fined for copyright infringement

Baidu Inc, China's top search engine, has been found guilty of copyright infringement and ordered to pay compensation to a popular literary website. The Luwan District People's Court has ordered Baidu to pay Qidian.com about 550,000 yuan (US\$ 84,722) for infringing its copyright for five novels.

In March 2010, Qidian sued Baidu, saying its users could use Baidu to find links to pirated versions of five novels for which it owned the Internet copyrights. Over the past few months, Baidu has been involved in a dispute over its Baidu Library product with a group of authors who said Baidu reproduced their works without permission. Baidu apologized to the authors and took down the infringing material (<http://www.reuters.com>).

China sees second largest growth in international trademark applications

China filed more than 1,900 international applications under the 85-member Madrid System for the International Registration of Trademarks, a jump of 42 per cent from 2009, which was the second highest growth rate only after South Korea, according to a press release by WIPO. In addition, it accounted for nearly 5 per cent of the international applications WIPO received last year, moving up one place to become the world's seventh largest filer. The Madrid system has played an important role in helping China carry out the 'going global' strategy, protecting the trademarks of Chinese companies in overseas markets and enhancing their international competitiveness and abilities to withstand risks. According to statistics from WIPO, China continues to be the most designated country for international trademark applications with 16,143 designations in 2010, up more than 9 per cent from 2009, accounting for over 5 percent of the total. The European Union ranked second in the number of designations, though 11 per cent less than China's 16,143. China enjoyed a total of 154,000 designations as of the end of 2010, ranking first for six consecutive years. In addition, it has been on the top 10 list for international trademark applications for seven consecutive years and filed 11,415 international applications as of the end of last year, the largest filer among developing countries. Fu Shuangjian, deputy director of the State Administration for Industry and Commerce, said that the first step for a company to go global is to obtain legal protection for its trademarks in foreign countries. Only after its trademarks are given legal protection in foreign countries, can the marketing and advertising for its products be guaranteed there (<http://english.peopledaily.com.cn>).

Key Patents

Universal Security Instruments Inc receives new patent

Universal Security Instruments Inc announced the issuance of US Pat No 7,893,825 titled 'Alarm origination latching system and method' issued for its new IoPhic[®] and microprocessor ('M' Series) product line of smoke alarms. The patent represents development of new smoke alarm technologies and design features, which is expected to make

conventional alarms obsolete. The patented feature enhances the ability of the user or servicing electrician to quickly locate the originating alarm in an integrated system using a proprietary audible signal rather than the current method of visual inspection. Also, combination of features virtually eliminates nuisance alarms that are a leading reason for disabled smoke alarms (<http://www.prnewswire.com>).

EarthSure Corp receives patent allowance to tap into new source of green energy

EarthSure Renewable Energy Corp has received a notice of allowability from the USPTO for their WindAir patent. This newly allowed technology called WindAir generates an innovative form of clean renewable energy. By converting the exhausted airstream from air-conditioning condenser coils and utilizing a proprietary multiport secondary fan turbine, the WindAir system creates a unique new form of energy production. With the acceptance of this technology, EarthSure will have a world-wide application to lower electric consumption by using the power generated from air-conditioning systems and turning it into renewable energy (<http://www.sfgate.com>).

NuPathe announces allowance of US patent application for its migraine patch

Nupathe, a specialty pharmaceutical company has been issued a notice of allowance for US patent application 12/181,142 entitled 'Transdermal methods and systems for the delivery of anti-migraine compounds.' This application relates to methods of effectively treating a migraine using an iontophoretic patch containing a triptan (<http://www.marketwire.com>).

New Apple patent application: Air keyboards that sense fingers

Apple's latest patent application is a keyboard idea that aims to use proximity sensors that will enhance tactile feedback from keystrokes which will, in turn, enhance user experience. The filing was entitled 'Input devices and methods of operation'. The problem sought to be solved is a fully satisfactory user experience for users accustomed to more conventional keyboard designs, since computing devices such as computers, mobile communication devices and portable media players, have become smaller and thinner with small keyboards.

The inventors, consider two solutions to the problem. The first system is intended to provide a tactile feedback before the user comes in contact with the key. Once a key detects the proximity of a user about to type, the keyboard will 'flow air from the input device proximate the key in question'. The air will come from either micro-preforated keys or holes adjacent to the key. The other system involves the key being pneumatically pulled away from the user once it detects the typing intention. This pneumatic system would make it easier on finger when depressing keys. The patent says that the two systems 'may be used in combination, providing initial air resistance to movement, and then withdrawing the key from the users touch.'

The designs could also be implemented in virtual keyboards 'wherein each key location is merely a defined region on a solid surface' where contact with the surface region would signal keystrokes (<http://www.digitaltrends.com>).

GT Life Sciences issued patent on methods for genomic-based metabolic modelling

GT Life Sciences Inc has been issued US Pat No 7,856,317 for 'Systems and methods for constructing genomic-based phenotypic models'. The patent contains broad, novel claims to computer systems and complex modelling processes by which scientists may use computational models to create scalable models to reconstruct biological networks and simulate biochemical functions.

The '317 patent discloses and covers computational methods for constructing, simulating, and predicting the activity of metabolic network models where genes are linked to reactions. Its claims cover systems and methods to create computational models of organisms for which genome-scale information is just now becoming available as well as to scale-up existing models to which new and additional genomic information can be added. By using the inventions claimed in the '317 patent, scientists may significantly increase drug target identification and safety prediction in the drug discovery process, resulting in faster development of new drug therapies at greatly reduced cost (<http://www.prnewswire.com>).