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NEWSLETTER

Director's Message



The term 'innovation' is the buzzword in today's era of knowledge and technology. Sometimes the term 'innovation' is wrongfully interchanged with the word 'invention'. Invention means creation of an idea while innovation means successful application of idea into practice. Nicolar Tesla was an inventor who spent money to create his invention but was unable to monetize them, whereas Thomson Edison was an innovator who could make money by putting the ideas of Tesla into use. Simply speaking, invention is the conversion of cash into ideas by spending money in fundamental research by a scientist whereas

innovation is the conversion of ideas into cash by an entrepreneur. Invention may take place even without an invention, IBM PC which was launched in 1982 is the live example of an innovation bringing revolution in the field of computers without any new invention but merely by licensing technologies from Microsoft and Intel with a completely new marketing model of advertising computers on TV for home use. Similarly launching of iPod is also truly innovative and not very inventive by simply combining the features of mp3 players with aesthetic design and ease of use.

The distinction between the two is well described by Jan Fagerberg in his 2004 article as "An important distinction is normally made between invention and innovation. Invention is the first occurrence of an idea for a new product or process while innovation is the first attempt to carry it out into practice". In the context of intellectual property rights, especially in the Patent Laws 'what is legally and technically important is, the invention and not the innovation'. In order to get a patent, one has to satisfy that the product or the process is new invention (novelty), involving inventive steps and industrial application. An invention though patentable, may or may not be commercially viable. Therefore an innovation process management is a pre requisite in any research and development unit to identify an idea with systematic process for invention disclosure and proof of the concept in order to convert an idea into an invention. However, in order to convert the invention into an innovation, proper market study is required for an appraisal of its commercial viability after taking into consideration the revenue earning and the cost involved in the process of the new invention to be launched as a product.

Innovation in true sense implies commercialization of invention by putting into use the technology derived from the ideas or invention after due diligence and valuation either for captive use in the existing unit or in a new manufacturing facility or by licensing out or sale to the third party. IP leveraging helps business organizations for optimization of the value involved in the related intellectual property by way of different available options of technology transfer in the form of licensing, franchising, joint venture and so on. While the intellectual property rights ipso-facto implies a right to exclude others from the use of newly invented technology by creating a wall or barrier in the form of 'right to exclusion', IP Leveraging is a positive way of allowing the competitors to use the same in consideration of value. IPR, is thus may act, both as a hindrance or as a tool to facilitate transfer of technology.

Thus, there are gaps between invention and innovation and also between invention and investment. ITAG provides a complete solution to bridge such gaps by helping research institutes by a full proof innovation process management and by acting as a catalyst for an effective technology transfer. One of such effort is IP awareness. ITAG coveys its sincere thanks to all the speakers and participants in its second International IPR conference on 'IP Leveraging in software, electronics and green technology' at Bangalore, on January 28-29, 2010.

- Dr. D. R. Agarwal

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IPR NEWS - INDIA

BHARTI WAL-MART FACES TRADEMARK OPPOSITION

Bharti Wal-Mart, the Indian joint venture between US retail giant Wal-Mart and Bharti Enterprises, is facing opposition to registering its 'Great Value' brand in the country.

In 2008 Bharti Wal-Mart had filed 12 applications to trademark the logo, many of which have been opposed. Usually it takes around two years to process a trademark application before they being put in the public domain, under Indian laws. A time of four months is given to make any opposition to the application.

JET AIRWAYS IN PATENT INFRINGEMENT CASE

Virgin Atlantic Airways Ltd., a Britain-based airway company has filed a case against Jet Airways (India) Ltd. in a United Kingdom court, alleging infringement of its patent on flatbed seats for the premium class. Virgin Atlantic holds the patent and design rights for the flatbed seating system in several countries, including in the UK.

Virgin had filed for patent in India for the design and technology of the seats and the herringbone configuration which is used in its upper class, and is similar to the first or business classes on other carriers. Jet Airways had objected to the patent claim. Virgin has already been granted patents in multiple jurisdictions and has a pending patent in India.

EUROPEAN PATENT FOR BAJAJ AUTO'S EXHAUSTEC

The Munich-headquartered European Patent Office has granted a patent to a leading Indian

auto maker Bajaj Auto for its ExhaustEC technology. This technology will help in improving the performance of a two-wheeler, especially the power in a single cylinder four stroke engine.

Over 50 lakh two-wheelers fitted with this technology have already been manufactured and sold by Bajaj Auto since 2004. ExhaustEC technology has been granted an Indian patent which is valid till 2024.

ExhaustEC in combination with Bajaj's patented DTS-i twin spark technology collectively increase fuel efficiency and performance.

RANBAXY ACQUIRES PRODUCT RIGHTS AND MANUFACTURING FACILITY FROM BIOVEL

Ranbaxy Laboratories Limited (Ranbaxy), India's largest pharmaceutical company has got into an agreement with Biovel Lifesciences Private Limited (Biovel), Bangalore, for the possession of product rights and a manufacturing facility, from Biovel. This deal will give an entry stage to Ranbaxy to manufacture vaccines and biotherapeutics as it will now have access to all of Biovel's products, pipeline, IP, Know-How and manufacturing facility located in Bangalore.

The Typhoid Vi antigen and Hib conjugate vaccines, for which, Biovel has received regulatory approval for India are the products that are included in the deal.

Ranbaxy Laboratories Limited has customers in over 125 countries around the world and has an expanding international portfolio of partnerships, joint ventures and alliances, ground operations in 46 countries and manufacturing operations in 7 countries.

IPR NEWS-AROUND THE WORLD

PARIS HILTON SUED FOR COPYING SHOE DESIGN

Paris Hilton, the socialite heiress is facing an infringement lawsuit for allegedly stealing a design from Gwyneth Shoes, a New York-based shoe company. The company alleges that Hilton had copied their design for her own line of footwear.

Hilton has been accused of stealing the idea to incorporate a pink coloured heart-shaped pad on her heels' insoles, a design the company claims to have developed and filed for a patent in 2007. Hilton released her range of footwear with the same design in February 2008. Gwyneth Shoes is suing Hilton for trademark and patent infringement and insists that Hilton must hand over every pair of shoes that feature the pink heart.

NOKIA WINS IPCOM PATENT SUIT

Nokia, the world's largest maker of mobile phones, has won a 3-year long patent dispute

with German-based ICom. London's High Court ruled in Nokia's favor that it had not infringed two ICom patents relating to mobile network technology as the patents were invalid.

ICom had alleged that Nokia was infringing its patents involved in the technology used to connect mobile phones to wireless networks. Nokia responded by initiating court proceedings in the UK against 15 ICom patents - including the two which were ruled invalid. Earlier this month the German Federal Patent Court in Munich had found another ICom patent invalid. Nokia would seek to recover its legal costs from ICom as a result of the UK ruling.

US PATENT FOR APPLE'S TABLET?

The U.S. Patent Office granted a number of patents to Apple Inc. just before the launch of its tablet. The patent entitled "Proximity Detector in Handheld Device" doesn't cover the tablet itself but is a way of data entry into it.

The patent defines what a portable device or

Contd. to page 7

IPR NEWS-AROUND THE WORLD....(contd.)

rather the tablet would do to perceive an object approaching it, identify the object and then provide a suitable reaction. It depicts how a tablet could sense a finger or stylus before it really touches the surface of the tablet or touchscreen, and then deliver the suitable response.

Apple was also granted patents relating to the management of wireless channel bandwidth, with applications in video conferencing, color management, an image-rotation patent, and two patents, covering switching IC ports to card slots, and timeline-based handling of audio and video tracks.

BAIDU WINS MUSIC PIRACY CASE

Universal Music, Sony BMG Music Entertainment, Hong Kong and Warner Music, Hong Kong had filed a lawsuit in February 2008 claiming that China's top search engine Baidu infringes their copyrights and demanded that the music links be removed.

The Beijing No.1 Intermediate People's Court has ruled the case in favour of Baidu, pronouncing that its links to music downloads do not amount to piracy. The court ruled that Beijing-based Baidu offered the searching service for pirated MP3 files, but is not actually in the piracy of the music and therefore is not liable to pay any damages.

Baidu's MP3 search feature has made it the number one search engine among the world's largest Internet population. The music industry's revenue has dropped noticeably, largely due to MP3 downloads from unauthorised sources. Nearly 99 percent of all music files in China are illegal and result in loss of billions of dollars a year for record companies.

COPYRIGHT INFRINGEMENT BY ANTI-PIRACY AGENCY

France's new internet agency set up by the French government's web police force to protect the rights of artists and to stop illegal downloaders is facing legal action for using a copyrighted design for its logo called Hadopi. Plan Creatif, the design agency that created the Hadopi logo has admitted that it used the typeface or font by mistake.

Within some hours of its launch, it was forced to make an apology for using a logo or typeface that belonged to France Telecom without its permission.

Jean-Francois Porchez, the graphic designer who created the distinctive "Bonjour" font and sold it entirely to France Telecom spotted the error. Mr Porchez is in view of taking legal action against the government for illegal use of his design.

GLIMPSES OF JUDGMENT ON IPR

ABBOTT LAB LOOSES BLOOD GLUCOSE TEST STRIP AND SENSOR PATENT BATTLE (ABBOTT LABORATORIES V. DICKINSON & CO. AND NOVA BIOMEDICAL CORPORATION)

FACTS: Previously in 2008, Therasense Inc. (Known as Abbott Diabetes Care Inc.) and Abbott Laboratories (together called as the plaintiffs') filed a suit for infringement of its U.S. Patent No. 5,628,890 ("the '890 Patent") against the Dickinson & Co. and Nova Biomedical Corporation ("together called as the defendants'). The '890 patent was related to an electrochemical sensors for measuring glucose levels in blood and the sensor comprising two electrodes 'the working electrode (claim 11)' and 'the counter electrode (claim 12)'. The plaintiffs' filed patent infringement suit before the U.S. District Court for the Northern District of California accusing that the defendants' involved in infringing claims 11 and 12 of the said '890 patent by making, using, and selling a product called BD-Test Strips. The defendants' denied the infringement and asserted that the claims 11 and 12 of the patent are invalid under 35 U.S.C §§ 102, 103 and 112. Defendants' also asserted that the said claims are obvious or anticipated by two prior patents (U.S. Patent No. 5,120,420 ("Nankai") and U.S. Patent No. 5,582,697 ("Ikeda"). The Jury found that the Defendants' infringed claims 11 and 12 under the Doctrine of Equivalents and also found that claims 11 and 12 were invalid. After the Jury verdict the District Court pronounced judgment in favor of the Defendants'. Hence, the Plaintiffs' made an appeals against the District Court's Judgment before the U.S. Court of Appeals for the Federal Circuit (CAFC).

ISSUE: Whether claims 11 and 12 of the '890 patent are invalid?

JUDGMENT: While pronouncing the judgment in favor of defendants the Court opined that "in sum, we hold that claims 11 and 12 would have been obvious over Nankai as a matter of law. The erroneous jury instruction on the law of anticipation could not have changed the verdict of "anticipation or obviousness," and obviousness based on Nankai alone is sufficient to support that verdict as a matter of law". Therefore the U.S. CAFC affirmed the invalidity of claims 11 and 12 of the '890 patent and held that the Court does not have jurisdiction over defendants' cross-appeal.

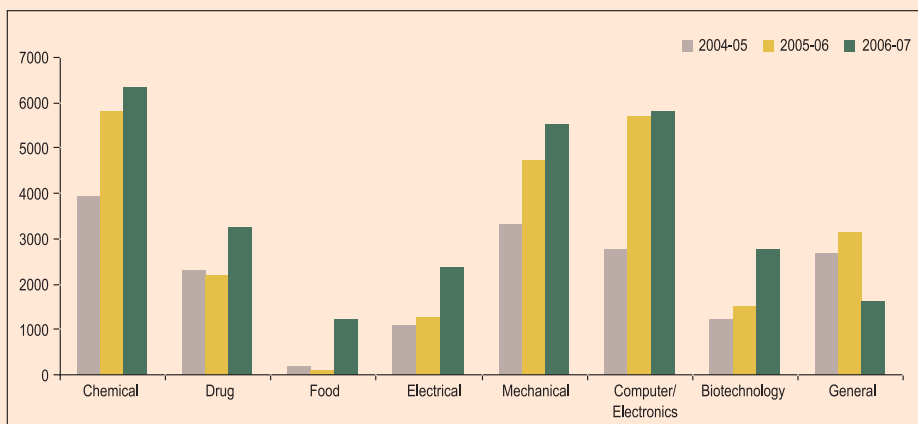
EVENT AT ITAG



Ms. Fernanda Villanueva of Novopatent of Mexico visited ITAG on 3rd February, 2010. In the photo on the left, she is with ITAG Team. In the photo in the right, Dr. D. R. Agarwal presented her a memento.

SNAPSHOTS

Number of Patent applications filed under various field on inventions in India, (04-07)



Source: Annual Report of the Office of the Controller General of Patents, Designs, Trademarks, Geographical Indications, Intellectual Property Training Institute, and Patent Information System, 2006-07



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**2nd INTERNATIONAL
INTELLECTUAL
PROPERTY RIGHTS
CONFERENCE**
(INDO-US Knowledge Enterprise)

**IP LEVERAGING IN SOFTWARE,
ELECTRONICS AND GREEN
TECHNOLOGY**
CONFERENCE: 29-30 JANUARY 2010
VENUE: HOTEL LaIT ASHOK, BANGALORE

ITAG has been able to organise its 2nd International IPR Conference successfully with an overwhelming support from more than 100 delegates as the knowledge city of Bangalore in collaboration with BCIC (Bangalore Chamber of Industry and Commerce) and Sughrue Mion PLLC, USA.

Glipmses of the 2nd International IPR Conference 2010 Inaugural session



Mr. Sridhar Upadhyay, HBO, South Zone, Gati Limited, presenting a flower bouquet to **Mr. S. Chandrasekaran**, Technical member, IPAB, Chennai.



Mr. N. K. Pandey, one of the Directors of ITAG Business Solutions Ltd., felicitating **Prof. N. L. Mitra** with a flower bouquet.



Mr. S. Chandrasekaran inaugurating the conference by lighting the lamp.



Prof. N. L. Mitra is lighting the inaugural lamp.



Dr. D. R. Agarwal, Director of ITAG, delivering the welcome address at the conference.



Mr. Peter McKenna, Partner, Sughrue Mion PLLC, USA, delivering Opening Remarks in the conference.



Chief Guest, **Mr. S. Chandrasekaran**, Technical Member, IPAB, Chennai delivering the Inaugural Address.



Chairman of the inaugural session **Dr. N. L. Mitra**, Partner, Partner, Fox Mandal Solicitors & Advocates delivering his speech.



Guest of Honor, **Dr. Prabuddha Ganguli**, CEO, Vision IPR, delivering his speech during the inaugural ceremony of the conference.

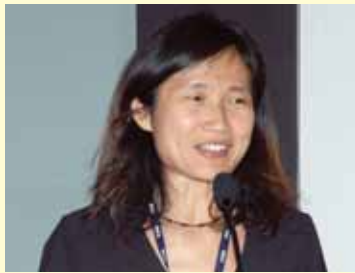


A view of the main dias during the inaugural session.

Technical Sessions



Mr. Dominic Keating, First Intellectual Property Secretary at US Embassy delivering his speech on Technology Transfer in the fields of Software, Electronics and Green Technology.



Ms. Susan P. Pan, Partner, Sughrue Mion PLLC, USA delivering her speech on Patenting of software and electronic technologies in the United States in view of recent case law including Bilski.



Dr. Pinaki Ghosh, Head IP Cell, Infosys Technologies Ltd delivering his speech on Importance of IP protection and use of patents as a competitive tool for the electronics and software industry in India.



Mr. Alban Kang, Managing Partner, ATMD Bird & Bird LLP, Singapore delivering his speech on International patent filing under PCT route and A comparative study of patentability of electronics and software technologies in US, Japan, EU, China and India.



Mr. Chid Iyer, Partner, Sughrue Mion PLLC, USA delivering his speech on Importance of IP protection and use of patents as a competitive tool for the electronics and software industry in India.



Mr. Anup Kacker, GM (Co-ordn. & I.P.), Indian Oil Corporation Limited, was the chairman of the Technical session VII on second day.



Dr. Arun Kumar Kashyap, Sr. Research Manager (IPR), Indian Oil Corporation Ltd, delivering his speech on Innovation Process Management in Research Institution.



Dr. Viswanathan Seshan, Country Manager, Philips Intellectual Property & Standards, delivering his speech on Importance of IP protection and use of patents as a competitive tool for the electronics and software industry in India.



Mr. Miku H. Mehta, Partner, Sughrue Mion PLLC, USA delivering his speech on International patent filing under PCT route and A comparative study of patentability of electronics and software technologies in US, Japan, EU, China and India.



Mr. S. Chandrasekhar, Managing Director, Bhoruka Power Corporation Limited, delivering his speech on Green Technology for oil, gas and energy sector.



Dr. Pradeep V. Desai, Principal Consultant, TCS Ltd, delivering his speech on Innovation Process Management in Research Institution.



Samir Raiyani, CEO, Dolcera delivering his speech on Innovation Process Management in Research Institution.

Technical Sessions



Mr. Navneet Bhusan, Founder-Director, Crafitti Consulting Pvt. Ltd delivering his speech on Innovation Process Management in Research Institution during the conference.



Mr. Faiz Ur Rahman, Manager IP, Wipro Technologies, delivering his speech on Developing and maintaining an optimal patent portfolio for large and medium size electronics companies with special emphasis on patents covering industry standards.



Mr Jitin Talwar, Advocate and Patent Consultants, Talwar & Talwar Consultants, delivering his speech on IP policies, strategies and FTO analysis under a competitive environment.



Mr. B. L. Chandak, Vice President Corporate Finance, RPG Enterprises, delivering his speech on Green Technology for oil, gas and energy sector.



Mr. Kanwal Rai, Founder , IVAPS, delivering his speech on Innovation Process Management in Research Institution.



Mr. Roshan Agarwal, Director, Siddhast IP Innovation Pvt. Ltd, delivering his speech on IP policies, strategies and FTO analysis under a competitive environment.



A Panoramic view of the audience in the 2nd IIPRC, 2010 at Hotel LaLit Ashok, Bangalore.



A group photo of the speakers with the delegates at the end of second day at 2nd IIPRC, 2010 at Hotel LaLit Ashok, Bangalore.

Feedbacks from our delegates

"It was very much informative." - **Mrs. Kavita Poddar**, Vice President & Territory Manager (India), Siddhast IP Innovation Pvt. Ltd.

"Prompt start was very useful. However too much emphasis on U.S Law as compared to Indian Law." - **Sanjay Gajjar**, Compliance Consultant, A4G Technologies.

"It was a fantastic experience for me to meet and interact with the IP community assembled at the conference." - **Samir Raiyani**, CEO, Dolcera.

"The IPR conference was a great experience – especially interacting with experts in multiple field. Hats off to Dr Agarwal and ITAG team for organizing this conference. I definitely look forward to the next one." - **Navneet Bhushan**, Founder Director, Crafitti Consulting Pvt Ltd.

"The conference was well organized and with rich content, including selection of the speakers. My feedback is that some of the ceremonial rituals were overdose eating into most of the important sessions which had only 15- 20mins." - **Rajinikanth Madhavan**, Manager – Legal Services, First Indian Corp Pvt Ltd. Bangalore.

"It was very informative and educative especially after hearing the elite panelists share their experience and interacting with the distinguished delegates that attended the program. We look forward to such meetings from ITAG." - **Rajeev Nair**, Edusys Services Pvt. Limited.

"It was indeed a great pleasure for me to be a part of this Seminar. All the Sessions were really good!!" - **Iti Negi**, IPR Specialist, LG Soft India Pvt. Ltd.

"Certain parts of the conference were definitely very informative and did help us in widening our IP knowledge base. Especially having luminaries such as Prof. Mitra and Mr. Prabuddha Ganguly was definitely in order." - **Chandan Nagaraja**, SASKEN Techonologies.

"Thank you very much. The conference was very well done. Congratulations to you and your team." - **Dr. Pradeep V Desai**, Principal consultant and technology head, Tata Consultancy Services.

"Thank you for hosting a well-organized and professional conference entitled "IP Leveraging in the Software and Electronics Industries." The theme and topics for discussion were well-developed and timely. I was impressed by the practical experience and knowledge of the speakers and the audience. I enjoyed speaking at your conference and interacting with the audience. " - **Dominic Keating**, First Secretary for Intellectual Property, U.S. Embassy, New Delhi.

"I think the arrangements were excellent and the quality of speakers that you had managed to put together simply outstanding. I wish you all the very best in your future endeavours." - **Dr. Viswanathan Seshan**, Country Manager, IP&S-India. Philips Intellectual Property & Standards.

"It was organised extremely well and the speakers were very knowledgeable and talked about subjects which were current and of interest to the IP community. And they put it across really well. So, I could really learn a lot. " - **Cdr. Ajaya Prasad**.

"The two days were quite insightful for a layman like me." - **Mr. N K Pandey**, Chief Legal Officer, GATI Ltd.

"The Conference at Bangalore on 29 & 30 January last is surely path breaking. Though the focus area was IT, Electronics and Green Energy, the spectrum was so wide that intelligentsia in the respective fields around the country could taste the need of the hours." - **Tapán Kumar Ghosh**.
