



Confederation of Indian Industry



**INTELLECTUAL
PROPERTY INDIA**



A REPORT ON

**Roving Seminar on Public Awareness Building on the
Madrid System for the International Registration of
Marks, Kolkata, West Bengal**

24 November, 2014

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A. Background

Intellectual Property Rights (IPRs) are a set of exclusive rights protected by law which are accorded to creators or persons over their creations for a certain time period. An IP right holder can realize value from its intellectual assets through utilizing it internally for its own processes or share it externally through provision of goods and services to customers. The latter can be achieved through legal mechanisms such as licensing or assignment.

In today's globally competitive environment, intellectual property has placed itself on a pedestal in the context of economic growth and is becoming increasingly important. Intellectual Property (IP) is the fuel that powers the engine of prosperity, fostering invention and innovation. The increasing significance of intangible assets in the global economy is forcing business organizations to actively manage their IP as a key driver for building and sustaining their competitive advantage and achieving superior performance.

IPRs are now being used not only as a tool to protect creativity and generate revenue but also to build strategic alliances for socio-economic and technological growth. Accordingly, in order to foster the protection of innovations and creativity, the Intellectual Property Office under the Ministry of Commerce and Industry is dedicated to mobilize the use of such technological advancement for the economic development of the country.

The generation of IP largely takes place at the State level through small, medium and big industries, academic institutions and individuals. Most States have not yet evolved their IP strategies and ecosystems in terms of effective facilitating services for all sectors including MSMEs and start-ups, creating awareness, conducting training programs, systems for utilization of

IPR etc. States need to maximize the benefits from their intellectual property by stimulating higher levels of innovation through a judicious system of rewards, ensuring timely and effective legal protection for IP and leveraging strategic alliances for enhancing the value of the intellectual property created in the State.

The Madrid Protocol

The Madrid Protocol is an international treaty adopted in 1989 in order to remove the difficulties that were deterring some countries from acceding to the Madrid Agreement 1891 treaty that established the system for the international registration and trademarks. The Protocol, which has been in force since April 1, 1996, has become convenient and economical means of securing trademark registration in member countries in Asia, Africa, Europe, Middle East, the Pacific Rim and the Western Hemisphere.

A party can file if that party (a) is a national of, (b) has a real and effective industrial or commercial establishment in or (c) has a domicile in one of the contracting parties of the Protocol. Thus, a party may be able to file through more than one national trademark office. An International Registration application is filed at the Bureau through the office of origin of the basic national application or registration. It cannot be filed directly at the Bureau.

The Protocol eliminates the high filing costs typically associated with filing a separate national application in each country/jurisdiction in which protection is sought. Cost savings are also realized at the post registration stage. Renewals, recordals of changes in the name or address of the proprietor, and assignments can be carried out centrally at the Bureau without their having to be recorded separately in each of the designated countries/jurisdictions. The Protocol can be used to secure trademark protection economically in many countries/jurisdictions (eg Australia,

China, the European Union, India, Japan, the Republic of Korea, Mexico, Russia and the United States), as well as in many others of commercial significance. A number of Latin American countries are moving towards adoption of the Protocol.

The Protocol allows for applications to be filed in additional designated contracting parties after the initial filing. However, that the International Registration and all national designations under that registration will fall due for renewal at the same time even if a specific country/jurisdiction was designated after the initial filing. In other words, even if the holder designates a new country/jurisdiction in the ninth year of the International Registration, he will still have to pay renewal fees at the tenth anniversary of the International Registration for all designations, including the new country/jurisdiction. (Ref: WIPO's Madrid Protocol Resources; International Trademark Association 2014)

Present Status of Indian Trade Mark Registry Office – Legal Aspect

- **The Trade Marks Act 1999 & The Trade Marks Rules 2002** govern the law relating to trademarks in India
- These came into force on **15th September 2003**, replacing the Trade & Merchandise Marks Act 1958 & Trade & Merchandise Marks Rules 1959
- **The Trade Marks (Amendment) Act 2010** incorporating '**provisions relating to protection of trademarks through international registrations under Madrid Protocol**' has been passed and published in the official Gazette, by the Government of India
- **The draft Rules to implement The Trade Marks (Amendment) Act 2010 relating to the Madrid Protocol have been finalized** and it is being published in the official Gazette of the Government of India to invite comments/suggestions. from the public

B. Objectives

The main objective of the seminar was to increase IP filing of states and thus building a robust IP ecosystem in the states of India. Involving and sensitizing SMEs to become more inclined and pro to IP filings.

Others objectives are given below.

- To enabled the Intellectual Property System in our country which in turn enabled the Indian and foreign companies to align themselves with global IP standards.
- To strengthen up the opening up of various sectors triggered attraction within foreign companies to invest in our country subject to protection of their technology and intellectual property.
- To open new avenues for MSMEs of the State and the region for entering the global market through protecting their IPs with respect to technology, product development, process etc.
- To assist States in creating/developing a Strong IP ecosystem thereby, transforming it into an attractive investment destination for the Industries.
- To sensitize the SME clusters about Intellectual Property Right and their protection.
- To identify protectable innovations in all the sectors.
- To suggest steps for transforming innovations into proprietary assets.
- To use IP information, particularly relating to patents and designs, for further research and development in developing new product and process.
- Utilize the IP information in their business development

C. Place of the Seminar

The seminar was held at **Rotary Sadan**, 94/2 Chowringhee Road, Kolkata 700 020. The venue was located at the heart of Kolkata on the Chowringhee Road, connecting the two extremes on the North and South flanks of the city.



D. Sessions of the Seminar

With the Prime Minister, **Mr Narendra Modi**, going places pitching for 'Make in India' across the globe, it's high time Indian businesses went in for the Madrid System of trademark registrations to manage their portfolios globally, said experts at the Roving Seminar on Public Awareness Building on the Madrid System for the International Registration of Marks. According to them, the Madrid System will go a long way in promoting goodwill, brand and reputation of Indian brands in global markets. "The Make-in-India campaign is a clear signal. It is clear that the economy is set for a shift from a services-led growth to a labour-intensive manufacturing-led growth. Now, it is time for us to protect our assets," said **Mr Chaitanya Prasad**, IAS, Controller General of Patents, Designs and Trademarks. According to him, it is IPR that will determine how the country progresses. **Mr Naresh Prasad**, Executive Director and Chief of Staff, Office of the Director General, World Intellectual Property Organization (WIPO), Geneva, said it is time businesses in India, especially the SMEs, understood the enormous benefits of the Madrid Protocol. He also spoke of the "immense value" of creativity and innovation, which in his view, will be the game-changer for businesses in the 21st century. Also present at the Seminar were eminent speakers such as **Ms Junying Tao**, Senior Counsellor, Information and Promotion Division, Madrid Registry, Brands and Designs Sector, WIPO and **Mr Bernard Volken**, Attorney-at-Law, Fuhrer Marbach and Partner, Bern, Switzerland.

E. Participants of the Programme

There were almost 115 participants in the Seminar from different cross-sections of the industry, academia, professional and legal fraternity of the State of West Bengal as well as the region.

There was a considerable participation from different Attorney Firms who are already working with the Trade Mark Registry Office at Kolkata. Renowned Attorney Firms/Agents viz D P Ahuija, Khaitan & Co, Lexmotion, Daswani &

Daswani, Kolkata Trademark Services, S S Dutta & Associates and lot many participated, interacted and discussed with the speakers at length. Officials from the Trade Mark Registry Office, Kolkata participated as well as extended their efforts in mobilising participation from the legal fraternity and the local Industry. Office Bearers from local Industry Associations and Chambers also added value by raising inquisitive questions during the Q&A session, which in-turn encouraged the speakers. Participation from the academia also enriched the quality of the seminar discussion.

F. Recommendations & Conclusions

The Seminar concluded with following recommendations and conclusions :

- The Union Government has set up a think tank on intellectual property rights, which is engaged in deliberations on the new issues including functional design and utility models.
- Indian Companies have become more active in registering trademarks globally after India joined the Madrid Protocol in 2013.
- Applications from overseas players for registering of trademark have increased considerably.
- Indian Companies need to be more aware about getting their trademark registrations in overseas market under the Madrid Protocol.
- Madrid Protocol is a cost effective mechanism that provides protection to Indian Trademarks overseas and facilitate foreign firms to file their trademark in India.
- MSMEs should take the advantage of the Madrid Protocol System to expand their business horizon beyond the Indian boundary.

G. About Organisers

Indian Intellectual Property Office

The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) is located at Mumbai. The Head Office of the Patent office is at Kolkata and its Branch offices are located at Chennai, New Delhi and Mumbai. The Trade Marks registry is at Mumbai and its Branches are located in Kolkata, Chennai, Ahmedabad and New Delhi. The Design Office is located at Kolkata in the Patent Office. The Offices of the Patent Information System (PIS) and National Institute of Intellectual Property Management (NIIPM) are at Nagpur. The Controller General supervises the working of the Patents Act, 1970, as amended, the Designs Act, 2000 and the Trade Marks Act, 1999 and also renders advice to the Government on matters relating to these subjects. In order to protect the Geographical Indications of goods a Geographical Indications Registry has been established in Chennai to administer the Geographical Indications of Goods (Registration and Protection) Act, 1999 under the CGPDTM.



Confederation of Indian Industry (CII)

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the development of India, partnering industry, Government, and civil society, through advisory and consultative processes.

CII is a non-government, not-for-profit, industry-led and industry-managed organization, playing a proactive role in India's development process. Founded over 118 years ago, India's premier business association has over 7100 members, from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 90,000 enterprises from around 257 national and

regional sectoral industry bodies. CII charts change by working closely with Government on policy issues, interfacing with thought leaders, and enhancing



Confederation of Indian Industry

efficiency, competitiveness and business opportunities for industry through a range of specialized services and strategic global linkages. It also provides a platform for consensus-building and networking on key issues. Extending its agenda beyond business, CII assists industry to identify and execute corporate citizenship programmes. Partnerships with civil society organizations carry forward corporate initiatives for integrated and inclusive development across diverse domains including affirmative action, healthcare, education, livelihood, diversity management, skill development, empowerment of women, and water, to name a few.

The World Intellectual Property Organization (WIPO)

The **World Intellectual Property Organization (WIPO)** is a specialised agency of the United Nations. WIPO came in to being in 1967 to encourage innovative and creative activity around the world and to promote and protect intellectual



property globally. WIPO currently has 188 member countries with administering responsibility of 26 international treaties. WIPO is headquartered in Geneva, Switzerland. Mr Francis Gurry is the current Director-General of WIPO who took office on October 1, 2008. 186 of the UN Members as well as the Holy

See and Niue are Members of WIPO.

WIPO was formally created by the Convention Establishing the World Intellectual Property Organization, which entered into force on April 26, 1970. Under Article 3 of this Convention, WIPO seeks to "promote the protection of intellectual property throughout the world." WIPO became a specialized agency of the UN in

1974. The Agreement between the United Nations and the World Intellectual Property Organization notes in Article 1 that WIPO is responsible

"for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development, subject to the competence and responsibilities of the United Nations and its organs, particularly the United Nations Conference on Trade and Development, the United Nations Development Programme and the United Nations Industrial Development Organization, as well as of the United Nations Educational, Scientific and Cultural Organization and of other agencies within the United Nations system."

The Agreement marked a transition for WIPO from the mandate it inherited in 1967 from BIRPI, to promote the protection of intellectual property, to one that involved the more complex task of promoting technology transfer and economic development.

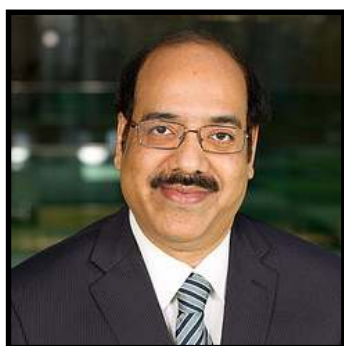
H. Annexures

Annexure – I : Speaker's Profile



Mr Chaitanya Prasad, IAS

Mr Prasad is the Controller General of Patents, Designs and Trade Marks (CGPDTM) of the Government of India. He took over charge as the Head of the Intellectual Property Office of India since 12th March 2012 and he functions as the statutory authority for the administration of Patents, Designs, Trade Marks and GI laws in India viz., He is the administrative head of Patent Offices located at Mumbai, Chennai, Delhi and Kolkata, Trade Marks Registry offices located at Mumbai, Chennai, Delhi, Kolkata and Ahmedabad, Geographical Indications Office at Chennai and Office of Patent Information System(PIS), Nagpur and Rajeev Gandhi National Institute of Intellectual Property Management (RGNIIPM) located at Nagpur. Besides, he is also holding the additional responsibility of Director of Indian Rubber Manufacturers' Research Association (IRMRA) since April, 2014. Before taking over as Controller General of Patents, Designs and Trademarks, he held the post of Joint Secretary in the Department of Industrial Policy and Promotion, Government of India, Ministry of Commerce & Industry handling various subjects such as leather and explosives industrial sectors, industrial licensing, UNIDO etc. He was also looking after investment promotions and international cooperation with the countries of North and South America.



Mr Naresh Prasad

Mr Prasad is currently the Executive Director and Chief of Staff, Office of the Director General, World Intellectual Property Organization (WIPO), Geneva. He has had extensive management and administrative experience at senior levels both with the United Nations in WIPO and at state and national levels in India. Since 2009, Mr. Prasad has served as the Executive Director and Chief of Staff to the Director General of WIPO. He also served with the United Nations Industrial Development Organization (UNIDO) for three years during the 1990s. As a member of the Indian civil service, Mr. Prasad has close to 33 years' experience with the Government of India in various assignments including with the United Nations. He served for 15 years in the field of Industry and Commerce and was India's focal point for intellectual property issues. Mr. Prasad holds a double Masters degree in Arts and Economics and was educated at the prestigious St. Stephen's College in Delhi University.



Mr Sandipan Chakravortty

Mr. Chakravortty served as the Managing Director of Tata Ryerson Ltd. (alternatively Tata Steel Processing and Distribution Limited). Prior to joining Tata Ryerson Ltd. in May 2001, Mr. Chakravortty held various positions in Tata Steel where he joined in 1975 as a Materials Controller. From Material Controller he moved on to become a Product Manager / Regional Manager / Marketing Manager for different Steel Product Groups & Regions. Mr Chakravortty is the Present Chairman of the CII North East Council and the Past Chairman of CII Eastern Regional Council. In addition Mr Chakravortty is a Member of the Executive Committee and Member of the Investment Committee Tata Steel Processing and Distribution Limited, Chairman of the Jamshedpur Utilities & Services Company Limited and Director, mjunction Services Limited. He is a Post Graduate from Case

Western Reserve University, Cleveland USA and Indian Institute of Technology (IIT), Kharagpur along with his Bachelors from IIT, Kharagpur.



Mr Gopi K More

Mr More is presently the Managing Director of Torsa Machines Limited, the flagship company of Torsa Group. Prior to joining Torsa Machines he has served as Director, Rukmini Tea Plantation, Partner, Metalmen Overseas, and Managing Partner Aqua World. He was also the Resident Representative at New Delhi for Anderson Wright International. Currently Mr More is also the Co-chairman of the CII Eastern Regional MSME Subcommittee. He had been the Co-chairman of CII Young Indian (YI) as well the Chairman of CII YI Environmental Vertical. Mr More is a Post Graduate in Public Relations from Bond University, Gold Coast, Australia.



Ms Junying Tao

Ms Tao, national of China, works as a Senior Counsellor in Madrid Registry, Brands and Designs Sector, World Intellectual Property Organization (WIPO) based in Geneva, Switzerland. Since 1991, she served at different posts in the international trademark and designs administration, legal, and promotion and information areas and participated in particular in the implementation of the Madrid Protocol in 1996, in the conclusion of The Geneva Act of the Hague Agreement. Before joining WIPO in 1991, she worked in the Trademark Office of the State Administration of Industry and Commerce of China. As Deputy Director of International Registration Division during 1988 to 1991, she accomplished the preparation of the accession of China to the Madrid Agreement and setting up the internal registration procedure under the Madrid

system. As a delegate, she participated in the diplomatic conference for the conclusion of the Protocol relating to the Madrid Agreement concerning the international registration of marks in 1989.



Mr Bernard Volken

Mr Volken is specialized in the field of intellectual property since 20 years. He focuses on developing a full range of IP strategies (prosecution, litigation, customs seizures, contracts/licensing). Before joining Fuhrer Marbach & Partners he worked for several years at the Swiss Trademark Office (IPI) as head of the Trademark Opposition Section. During this time he was involved in the total revision of the new Swiss Design Protection Act. Mr. Volken is lecturer at the „Hochschule für Technik Zurich“ in the field of a Master of Advanced Studies in Intellectual Property. He regularly speaks at IP seminars and frequently publishes articles on IP issues. Mr. Volken serves as an examination expert for Swiss Patent Attorneys and he is a contributing editor of the Swiss Journal of Intellectual Property Rights. Mr. Volken was the winner of the ILO (InternationalLawOffice.com) Client Choice Award 2011 and 2014 for Switzerland in the category "Trademark Law". He is regularly listed in the WTR (The Word's Leading Trademark Professionals) and has been recommended in Chambers Europe and "Who's who legal".



Mr Satyendra Kumar Pandey

Mr Pandey works as a Deputy Registrar of Trade Marks & Geographical Indications & Head of Office, Trade Marks Registry, Kolkata, Department of Industrial Policy & Promotion, Ministry of Commerce & Industries,

Government of India. He discharges his duty as Head of administration in Kolkata Head Office. He works as a Tribunal in Opposition section. He deals with the Public Grievances in his domain. He is responsible for promoting and implementing the Madrid Protocol. He has also participated in a WIPO training programme held in Tokyo in the year 2014. Prior to his current engagement he was a practicing Lawyer for more than Twenty years.



Mr R A Tiwari

Mr Tiwari has been working as Assistant Registrar of Trade Marks in Trade Marks Registry, Government of India, and is heading the Examination, Publication and Registration Section of the Trade Mark Registry at Mumbai. He is supervising all the functions related to implementation of the Madrid Protocol in India and also heading the IT Committee and is also responsible for automation of Trade Mark Registry. In addition he is responsible for hearing and disposal of trademark matters assigned from time to time. Prior to this he was a practicing advocate in the District Courts of Uttar Pradesh.



Mr C S Uchil

Mr Uchil is a Senior Examiner of Trade Marks and GI, Government of India. He is responsible for computerization of trade mark process “, Development of various modules for the process of Trade Mark application, implementation of online filing of both Trade Mark application and Madrid Protocol applications and Utility Modules as well as public search etc

Annexure II – Programme



ROVING SEMINAR

Public Awareness Building on the Madrid System for the International
Registration of Marks

Monday, 24th November 2014, Rotary Sadan, Kolkata

Programme

0945 – 1015 Hrs	Registration	
1015 – 1050 Hrs	Inaugural Session	
1015 – 1020 Hrs	Welcome Address	Mr Sandipan Chakraborty Past Chairman CII Eastern Region
1020 – 1035 Hrs	Inaugural Address	Mr Chaitanya Prasad, IAS Controller-General of Patents, Designs and Trademarks Government of India
1035 – 1045 Hrs	Special Address	Mr Naresh Prasad Executive Director and Chief of Staff, Office of the Director General, World Intellectual Property Organization (WIPO), Geneva
1045 – 1050 Hrs	Closing Remarks	Mr Sandipan Chakraborty
1050 - 1105 Hrs	Coffee/Tea Break	

Technical Sessions

1105 –1130 Hrs	Importance of Protecting Trademarks at Home and Abroad	Mr. S.K.Pandey Deputy Registrar of Trade Marks & GI, Trade Marks Registry, Kolkata
1130 –1215 Hrs	Overview of the Madrid System for the International Registration of Marks: Basic Features and Latest Developments	Ms. Junying Tao Senior Counsellor, Information and Promotion Division, Madrid Registry, Brands and Designs Sector, World Intellectual Property Organisation
1215 -1300 Hrs	How to Use the Madrid System to Obtain Trademark Protection Abroad	Ms. Junying Tao Senior Counsellor, Information and Promotion Division, Madrid Registry, Brands and Designs Sector, World Intellectual Property Organisation
1300–1345 Hrs		Lunch Break
1345 – 1530 Hrs	Implementation of Madrid Protocol in Indian office	Mr. R. A. Tiwari Assistant Registrar of Trade Marks & GI, Trade Marks Registry, Office of the CGPDTM Mr. C.S. Uchil Senior.Examiner of Trade Marks & GI, Trade Marks Registry, Office of the CGPDTM,
1530 -1545 Hrs	Coffee/Tea Break	
1545 -1630 Hrs	Experiences of Using the Madrid System	Mr. Bernard Volken Attorney-at-Law, Führer Marbach and Partner, Bern, Switzerland
1630 -1700 Hrs	Question & Answer and Summing up	

Annexure III – Glimpse of the Programme



Annexure IV – Press Coverage

THE HINDU
BusinessLine

Trademarks registration: India among top 3 nations

Our Bureau



Naresh Prasad, Executive Director and Chief of Staff, Office of the Director General of World Intellectual Property Organization (WIPO), Geneva flanked by Junying Tao, Senior Counsellor, Information and Promotion Division of Madrid Registry, Brands and Designs Sector, World Intellectual Property Organisation is in a roving seminar on public awareness building on the Madrid System for the International Registration of Marks in Kolkata on Monday organised by Confederation of Indian Industry. Photo: Ashoke Chakrabarty

Kolkata, Nov 24:

Indian companies have become active in registering trademarks globally after India joined Madrid Protocol last year. Since last July 2013 when the mechanism was made available to Indian companies, some 185 applications were filed for global registration, said Chaitanya Prasad, Controller General of Patent, Design, Trademarks and Registrar of GI.

He, however, mentioned that application for overseas players for registration of trademarks during the period were 11,618.

For registration of trade marks, India has been on of the top three active country for both local and global manufacturers. From the level of 60,000 applications (after the Trade Marks Act, 1999), the country now is witnessing applications of over 2 lakh.

In 2012-13, only 12,268 of the 43,674 patent applications filed could be examined. Of these 4,126 patents were granted. As many as 4,544 applications were not pursued and 357 were rejected.

About 22 per cent of the total 43 applications was from Indian companies. There are about 200 India-specific geographic indications. The Union Government has set up a think tank on intellectual property rights, which is engaged in deliberations on the new issues including functional design and utility models.

(This article was published on November 24, 2014)

The Telegraph, Kolkata 24 November 2014

Focus on trademarks

ASTAFF REPORTER

Calcutta, Nov. 24: Indian companies need to be more aware about getting their trademark registrations in overseas markets under the Madrid Protocol, a government official said today.

The Madrid Protocol system provides for the international registration of trademarks by way of one application that can cover more than one country.

It is a cost-effective mechanism that provides protection to Indian trademarks overseas



**Chaitanya Prasad in
Calcutta on Monday.**

Picture by Kishor Roy Chowdhury

and facilitate foreign firms to file their trademarks in India.

“Hopefully, as the industry becomes stronger, it will need more protection in the international market and will have to file in more countries. So they will have to start opting more for Madrid Protocol,” Chaitanya Prasad, controller general of patents, designs and trademarks, today said.

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'Indian industry not taking advantage of IPR'

IANIS Nov 24, 2014, 04:02PM IST

Tags: World Intellectual Property Organisation | Switzerland | rights | official | International Bureau | intellectual property | Insurability | Geneva

KOLKATA: Due to lack of awareness on Intellectual Property Rights (IPR), the Indian industry is lagging behind in exploiting benefits of registering and protecting trademarks internationally, an official said here Monday.

Chaitanya Prasad, Controller General of Patents, Designs and Trade Marks, DIPP, Ministry of Commerce and Industry, said though India has been on board the Madrid System for the International Registration of Marks (Madrid System) since July 2013, it has failed to capitalise on it.

"After joining the protocol we have had over 11,818 designations of India for foreign countries. As against that, we have received 8,397 applications to India after international registration. As against that, from India we have only 185 applications," Prasad said.

"People from outside are taking advantage to come to India but the industry in India is not taking that advantage," he said.

Prasad was speaking at a Confederation of Indian Industries-organised public awareness building seminar here on the Madrid System.

The system offers owners of trademark (TM) a cost effective, user friendly and streamlined means of protecting and managing their trademark portfolio internationally.

It is governed by two treaties, the Madrid Agreement and the Madrid Protocol, and is administered by the International Bureau of World Intellectual Property Organisation (WIPO) in Geneva, Switzerland.

Prasad said the System allows innovators and businesses to choose among 90 countries for filing trademarks with one single online application.

"Despite the ease of use and less expenditure, we have only 185 applications (in one year). Out of that, 97 have already had international registrations and they will proceed to national registrations in various countries where they are designated," said Prasad, stressing on the lack of awareness.

Prasad said the gap can also be seen in applications of patents where out of 43,000 applications into India from 2013 to 2014, only 22 percent are from within the country.