



AWARNESS PROGRAM FOR INDUSTRY & ACADEMIA

Organized by

The Office of the Controller-General of Patents, Designs and Trademarks

In cooperation with

The Federation of Indian Chambers of Commerce & Industry (FICCI)

Guwahati, 9th & 10th October 2014

Conference Report

About FICCI



FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY (FICCI) since 1927 has been the rallying point for free enterprises in India. It has empowered Indian Businesses in the changing times, to shore up their competitiveness and enhance their global reach. With a nationwide membership of 500 chambers of business association, FICCI stands for quality, competitiveness, and transparency, accountability and business – government-civil society partnership to spread ethics based business practices and to enhance the quality of life of common people.

FICCI has a reach in all 29 states and 7 Union Territories; through its Secretariat at New Delhi & 12 State Offices. FICCI has 1,800 direct members from the corporate sector, both private and public, including SMEs and MNCs and 2,50,000 lakh (approx.) indirect members through various regional chambers of commerce. ranging from 44 industrial verticals including public & private industries, associations, individuals, SME's etc.

FICCI strongly believes that it is important to provide entrepreneurs conducive environment which can foster innovation. FICCI IPR DIVISION is dedicated to the task of holistic development, protection, incentivization and promotion of Intellectual Property in India.

The Intellectual Property Education Centre (IPEC) is one of its kind online educational website second only to the WIPO educational initiative. Since its inception FICCI IPEC has successfully provided the certificate course to over 5,000 students, industry professionals, ex-government employees, etc. The courses include general course on IPR; specialized courses on Competition Law, Pharmaceutical R&D and US Patent. The plan for 2015 includes revamping the IPEC website alongwith updating the existing course material and also adding courses on IP enforcement, IP landscaping, IP Commercialization, R&D and Tech Transfer.

FICCI also established the Intellectual Property Facilitation Centre (IPFC) in New Delhi and Guwahati under the mandate of the Ministry of Micro, Small & Medium Enterprises (MSME). Headed by a team of experts from Legal & MSME; the IPFC helps MSME, Entrepreneurs, Individual Inventors etc. to identify, develop, protect, register, commercialise and use IP to business advantage. IPFC in 2015 endeavours to develop a holistic web system to provide the services IP consultancy, IP related knowledge, Commercialization Consultancy, Tech Transfer, linking international and national search databases; providing technical training in searching these databases; for payment of fee or for free to MSME; individuals innovators, etc. all over the Country and abroad.

FICCI IPR Division is dedicated to tackling IP related problem at the grass root level. The Division is engaged in conducting roving seminars for general IP Awareness & International Filing; Police & Customs Training for identifying IP related Offences and tackling them effectively; Judiciary Roundtables for making the Judiciary sensitive to the industry perspective of the losses and the impact of IP infringement.

In addition the Division is also involved in developing education curriculum to be included in the school syllabi at primary, secondary & higher secondary level. The division is actively involved in making policy suggestions to the IPR Think Tank.

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THE SPEAKERS

Mr. Rajesh Prasad, IAS, Commissioner, Industry & Commerce, Govt. of Assam

Dr. S K Mitra, Deputy Controller, Office of Patents & Design, Govt. of India

Mr. Dulal Choudhury, OSD to Governor of Assam

Dr. Silla Ramsundar, Associate Professor, National Law University and Judicial Academy of Assam

Mr. Rajib Bhattacharyya, Asst. Professor, University Law College, Gauhati University

Mr. Mukesh P Sahay, IPS, Addtnl DGP, (CID), Assam

Mr. S.K Deka, Asst. Director, MSME-DI, Guwahati

Mr. P C Roy, Sr. Zonal Manager, NERAMAC

Dr. R K Barman, Nodal Officer, Patent Information Center, ASTEC

Mr. Partha Chakrabarty, Phonographic Performance Ltd. (PPL)

Dr. Mridul Hazarika, Vice Chancellor, Gauhati University,

Mr. Prafulla Saikia, Additional Director, Industry & Commerce Dept. , Govt. of Assam,

Mr. Somesh Bose, CA,

Mr. P K Bagchi, IP Attorney, Bureau of Patent & Trademark

SUMMARY OF PROCEEDINGS

INTELLECTUAL PROPERTY RIGHTS AWARENESS PROGRAM

Venue:- Hotel Landmark, Guwahati & Vivekananda Kendra Institute of Culture, Guwahati

Dated:- 9th & 10th October 2014

Attendees:- 80 Members from Industry, Academia, MSME and individual entrepreneurs

Introduction

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.

On the above backdrop, Federation of Indian Chambers of Commerce and Industry (FICCI) in association with the Office of Controller General of Patents, Designs and Trademark & Registrar of Geographical Indications, India organised a 2 Day "Seminar on Intellectual Property Rights" on 9th October, 2014 at Hotel Landmark, Guwahati and on 10th October at Vivekananda Kendra Institute of Culture, Guwahati. The focus of the seminar was to promote the creation, protection & enforcement of the Intellectual Property Rights amongst various stakeholders.

IP has gained center stage and has attained more focus, more attention and is a subject matter of discussion between government, institutions, industries under various regimes and protocol that are put in place to ensure that the world in which we live, where knowledge and innovation are the engines of development and growth. In that world, those who have the creative minds and ability should feel assured that not only their efforts have been duly recognized but it is secured in a specified manner.

It is also important to promote intellectual property licensing practices, particularly, with a view to foster creativity, innovation and the transfer and dissemination of technology to developing countries and least developed countries. India should share its IP for the

betterment of other nations as done in the past. There has to be both free transfer of technology which will address the challenge of climate change and also transfer of recourses to poor countries.

Enforcement of IP rights is another major area which deserves serious mention in the policy. There should be effective enforcement of the IP laws so that the issues of piracy and counterfeits which results in huge losses to various industries can be mitigated. The only EOW that we have in Delhi is not sufficient enough to deal with IP crimes happening in across the country. Hence capacity building activities must be carried out with vigor to enhance the IP enforcement in the country and to make India a destination for international IP Filings.

Mr. Rajesh Prasad, IAS, Commissioner, Industry & Commerce, Govt. of Assam, addressing the Seminar, stressed on the need to set up a Patent Office in Guwahati in order to make it easier for the region to raise queries in matters of Intellectual Property and pace up innovations. He also emphasised the dire need to shift focus on investing in knowledge based capital rather than on physical capital.

Dr. S K Mitra, Deputy Controller, Office of Patents & Design, Govt. of India, stated that networking is very much necessary in order to facilitate the process of promoting Intellectual Property and this has to be ensured by organisations like FICCI. Speaking on the history of patenting in India, Dr. S K Mitra mentioned that in the beginning, around 3000 – 3500 applications used to be filed but now the no. of applications filed have increased to around 43,600.

Mr. Dulal Choudhury, OSD to Governor of Assam, spoke on his practical experience of filing two patent application and how he got a GI done for the famous Muga Silk of Assam.

Dr. Silla Ramsundar, Associate Professor, National Law University and Judicial Academy of Assam, and **Mr. Rajib Bhattacharyya, Asst. Professor, University Law College, Gauhati University,** spoke on the basic concepts of Intellectual Property Rights. “Intellectual property” are type of property that results from creation of the human mind, the intellect. Intellectual property management starts with the germ of an idea. IP by itself neither helps nor hinders development necessarily. It is how laws, policies and practices are designed and used in different countries that determine whether IP is effective for development purposes.

Further, there are intellectual assets and then there are intellectual properties- intellectual properties are where a government gives you an authority in return of an annuity, just like normal property; but before an IP there is something called the intellectual assets, where you keep them as trade secrets.

Mr. Mukesh P Sahay, IPS, Addtl DGP, (CID), Assam, speaking on enforcement of IP Rights mentioned on the various Indian laws available where one can take help in case of infringement of his or her IP Rights

Mr. S.K Deka, Asst. Director, MSME-DI, Guwahati, spoke on the various schemes on IPR Awareness available under the Ministry of MSME for MSME units.

Mr. P C Roy, Sr. Zonal Manager, NERAMAC, spoke about the flagship auction program of Large Cardamom and how it impacted the selling price of the product leading to a sharp shooting of the price from a nominal Rs. 450/kg to Rs. 1240/kg. The GI on Large Cardamoms of Sikkim is being taken up by NERAMAC.

Dr. R K Barman, Nodal Officer, Patent Information Center, ASTEC, speaking on Commercialization and Technology transfer issues faced by R&D Organisations, Industry etc. mentioned it is mostly the lack of IPR education, lack of interests amongst Industries to encourage R& D and lack of motivation to encourage commercialization of inventions that's a major bottleneck in commercialization and Technology transfer.

Commercialization of assets

IPRs play a crucial role as the legal vehicle through which either the transfer of knowledge or the contractual relationship is effected. Alternatively, knowledge may be exploited in-house, in which case the role of IPRs is to block imitating competition.

Commercialization can be defined as the process of turning an invention or creation into a commercially viable product, service or process. Commercialization may require additional R&D, product developments, clinical trials or development of techniques to scale-up production prior to taking the results of research to market. This is important because not all inventors or creators wish or have the resources, skill and appetite for risk to commercialize their own inventions or creations. Public research organizations (PROs) usually fall into this category.

Resources required

Converting an original or new idea, concept or design to a desired product available in the marketplace requires:

- Time
- Funds (own or borrowed)
- Creative effort
- Innovative effort (own, of employees and of external collaborators, partners, advisors and consultants)
- Persistence
- Focused management of the entire process from idea to market.

Conditions necessary to obtaining a commercial return

To obtain commercial returns from IP, certain conditions must exist. These include inter alia:

- The existence of a customer or the ability to create customers; and
- An entity controlling the manufacture and sale of the resulting products.

Legal vehicles for the commercialization of IP

There are two chief legal vehicles by which owners may commercialize their intellectual property (apart from in-house exploitation):

- To sell or assign the IP; and
- To license the IP rights.

Assignment or sale

When rights are assigned (other than partially), the recipient or assignee acquires ownership of all rights which previously belonged to the assignor, although the assignor may take a license back from the assignee. This can be done between two independent parties, but it can also be done on an internal level and form part of employment agreements and agreements with consultants or contractors. Assignments of intellectual property rights can be done either via sales or via transfers, i.e. with or without direct

financial compensation.

Licensing

Licenses allow patent owners to share inventions or other intellectual property in a controlled manner and to receive revenue (e.g. royalties) or other benefits (e.g. access to another firm's knowledge). A patent for example is licensed when the owner of the patent (the licensor) grants permission to one or more entities (the licensee(s)) to use the patented invention for mutually agreed purposes in a mutually agreed manner. In such cases, a licensing contract is generally signed between the two parties, specifying the terms and scope of the agreement. In some countries, intellectual property laws require licensing agreements to be registered with the national registry.

IPR enforcement as a pre-condition for successful commercialization

In entering into an intellectual property transaction, one of the most important assessments to be made relates not only to the validity and market-relevance of the asset but also the capacity to protect and enforce the IP. Once the new product is offered for sale and if it is successful in the market, it is likely that competitors will attempt to make a competing, cheaper product with identical or similar features. This may lead to undue financial pressure, particularly if the organization or partners have invested significantly in R&D for creating the product. This is where, in order to sustain a burgeoning enterprise, it is so important that the parties have recourse to the effective enforcement of IPRs.

The exclusive rights granted by patents give the owner the opportunity to obtain from the national courts one or more injunctions to prevent or stop the infringing activity. In addition to a final or permanent injunction restraining infringement, the patent owner and complainant may seek a temporary injunction on an urgent basis, pending a final trial, if it is suffering unquantifiable damage and acts without delay. It is also possible to obtain orders to have the infringing goods seized and destroyed and to obtain information as to the persons from whom the defendant obtained the supplies of the infringing material and the persons to whom the defendant in turn has supplied the infringing material. Courts also have the power to effectively freeze the defendant's assets, thus preventing them from being removed from the jurisdiction or from being used up prior to the full trial. If and

when the case goes to trial, the complainant then has the opportunity to claim damages or compensation for lost profits. In the alternative, following an injunction, the patent owner may be able to persuade the infringer to negotiate a licensing agreement for use of the invention. Whichever alternative is used, the opportunity for the patent owners or exclusive licensees to enforce their rights when they are advised that the invention is being copied is critical to maintaining their competitive edge, market share and profitability.

Mr. Partha Chakrabarty, Phonographic Performance Ltd. (PPL) mentioned that a major objective of PPL is to liaise with Govt. authorities on matters of concern particularly relating to copyright in sound recording.

Dr. Mridul Hazarika, Vice Chancellor, Gauhati University, Mr. Prafulla Saikia, Additional Director, Industry & Commerce Dept. , Govt. of Assam, Mr. Somesh Bose, CA, Mr. P K Bagchi, IP Attorney, Bureau of Patent & Trademark were the other prominent speakers for the Seminar.

Day 1 was attended by Industry Representatives, Govt. Officials, Advocates, Entrepreneurs, students and IP Experts. A total of 80 Participants turned out for the Program

Day 2 of the Seminar mainly focused on educating and inspiring youth and academic institutions for generation, protection and economic use of Intellectual Property. It was attended by student fraternity, Academicians, Advocates. A total of 110 participants turned out for the Program.

The event was well covered by local dailies – The Assam Tribune, The Sentinel, The Telegraph, Eastern Chronicle, Assam Post, Economic Times etc. to name a few.



Day 1- Hotel Landmark, Guwahati, 9th October, 2014 – The Audience



Day 1- Mr. Rajesh Prasad, IAS, Commissioner, Industry & Commerce, Govt. of Assam at the Inaugural Session, Hotel Landmark, Guwahati, 9th October, 2014



Day 1 - Dr. S K Mitra, Deputy Controller, Office of Patents & Design at the Inaugural Session, Hotel Landmark, Guwahati, 9th October, 2014



Day 2 – The Student Audience, Vivekananda Kendra, Guwahati, 10th October, 2014.



Day 2 – Dr. Mridul Hazarika, VC, Gauhati University at the Inaugural Session, Vivekananda Kendra, Guwahati, 10th October, 2014,.



Day 2 – The Audience, Vivekananda Kendra, Guwahati, 10th October, 2014.