



NALSAR

UNIVERSITY OF LAW

Shameerpet, R.R. Dist.
Hyderabad - 500 101.

ATTENDANCE REGISTER

Academic Year 20 _____ -20 _____


June - July 2017

Name of the Faculty: _____

Course No. _____ Course Title Research Methodology Course

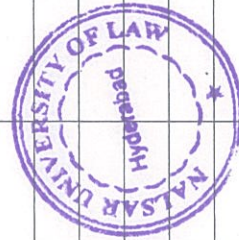
Class : _____ Semester _____ Total No. of Classes _____




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Medchal-Malkajgiri District

Name of the faculty : _____ Course No. _____ Course Title Research Methodology Class : _____ Semester _____ Total No. of Classes _____

S.No	I.D. No.	Name of the Student	I.D. No.								Mid Term (25)	Marks Secured	
			1	2	3	4	5	6	7	8		Written (20)	Project Docking of Marks (5)
1	2017-01	Mr. Anubhav Kumar	12.13.10.01	12.13.10.02	12.13.10.03	12.13.10.04	12.13.10.05	12.13.10.06	12.13.10.07	12.13.10.08			
2	2017-02	Mr. Arun Krishnan K	12.13.10.09	12.13.10.10	12.13.10.11	12.13.10.12	12.13.10.13	12.13.10.14	12.13.10.15	12.13.10.16			
3	2017-03	Ms. Bhumiika Nanda	12.13.10.17	12.13.10.18	12.13.10.19	12.13.10.20	12.13.10.21	12.13.10.22	12.13.10.23	12.13.10.24			
4	2017-04	Ms. Debarati Pal	12.13.10.25	12.13.10.26	12.13.10.27	12.13.10.28	12.13.10.29	12.13.10.30	12.13.10.31	12.13.10.32			
5	2017-05	Mr. Jacob George P	12.13.10.33	12.13.10.34	12.13.10.35	12.13.10.36	12.13.10.37	12.13.10.38	12.13.10.39	12.13.10.40			
6	2017-06	Col. Milind R Vyas	12.13.10.41	12.13.10.42	12.13.10.43	12.13.10.44	12.13.10.45	12.13.10.46	12.13.10.47	12.13.10.48			
7	2017-07	Mr. Sandeep Parekh	12.13.10.49	12.13.10.50	12.13.10.51	12.13.10.52	12.13.10.53	12.13.10.54	12.13.10.55	12.13.10.56			
8	2017-08	Mr. Sanjay Shenoip	12.13.10.57	12.13.10.58	12.13.10.59	12.13.10.60	12.13.10.61	12.13.10.62	12.13.10.63	12.13.10.64			
9	2017-09	Ms. Shiva Priyavada	12.13.10.65	12.13.10.66	12.13.10.67	12.13.10.68	12.13.10.69	12.13.10.70	12.13.10.71	12.13.10.72			
10	2017-10	Mr. Shubham Srivastava	12.13.10.73	12.13.10.74	12.13.10.75	12.13.10.76	12.13.10.77	12.13.10.78	12.13.10.79	12.13.10.80			
11	2017-11	Ms. Ujjwala	12.13.10.81	12.13.10.82	12.13.10.83	12.13.10.84	12.13.10.85	12.13.10.86	12.13.10.87	12.13.10.88			
12	2017-12	Mr. Varun Malik	12.13.10.89	12.13.10.90	12.13.10.91	12.13.10.92	12.13.10.93	12.13.10.94	12.13.10.95	12.13.10.96			
13	2017-13	Mr. Vivek Muthurjee	12.13.10.97	12.13.10.98	12.13.10.99	12.13.10.100	12.13.10.101	12.13.10.102	12.13.10.103	12.13.10.104			
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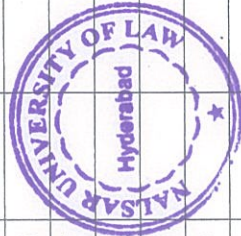
S.No	I.D. No.	Name of the Student	Course										I.D. No.	Mid Term (25)	Marks Secured	
			19	20	21	22	23	24	25	26	27	28			Written (20)	Project Docking of Marks Viva (5)
1	2017-01	Mr. Anubhav Kumar	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-01			
2	2017-02	Mr. Arun Krishna	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-02			
3	2017-03	Ms. Bhumika	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-03			
4	2017-04	Ms. Debarati Paul	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-04			
5	2017-05	Mr. Jacob George	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-05			
6	2017-06	Col. M. R. K.	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-06			
7	2017-07	Mr. Sandeep Paul	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-07			
8	2017-08	Mr. Sanjay She	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-08			
9	2017-09	Ms. Shiva Priya	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-09			
10	2017-10	Mr. Shubham Singh	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-10			
11	2017-11	Ms. Ujjwala	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-11			
12	2017-12	Mr. Varun Malik	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-12			
13	2017-13	Mr. Vivek Kumar	DP	DP	DP	DP	DP	DP	DP	DP	DP	DP	2017-13			
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S.No	I.D. No.	Name of the Student	Marks Secured																			
			Project		Mid Term (25)	I.D. No.																
			Docking of Marks			Written (20)																



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NALSAR University of Law

Research Methodology Workshop for Doctoral Students

Program Schedule

(June 24 to July 6, 2017)

24th June, 2017 Orientation Programme from 9:00 a.m. to 10:00 a.m.

Sl. No.	Date	Forenoon Session 10:00 am – 1:30 pm (11:30 to 12 Tea Break)	Afternoon Session 2:30 pm -5:00 pm	Evening session 6: 00 pm – 7:30 pm (may extend up to 8:00 p.m.)	Assignment and Evaluation
Day – 1	24/06/2017	<p>Problematising Research: Philosophical orientations in Law and Social Sciences</p> <p>Positivism in Law (Prof. Dhanda)</p> <p>Positivism in Social Sciences (Dr. Kannan)</p>	<p>Essential Skills for Researching</p> <p>1. Diagnostic writing 2. Note Making 3. Note Taking</p> <p>Dr. Alice Samson</p>	<p>Presentation of Research Proposals and Formation of Thematic groups</p> <p>Dr. Kannan Dr. Neha Pathakji Dr. Manisha Prof. Vasanthi Dr. Alice Dr. Vaagesh</p>	<p>Note Taking and Note Making</p>



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Day - 2	25/06/2017	Realism in Law: meaning, potential, Scope and limitations Prof. Dhanda Positivism and Empiricism in Research Dr. Kannan	Essential Skills for Researching 1. Comprehension Vs. Critical Reading 2. Positions and 'take-away' from reading Dr. Alice Samson	Guest Speaker: Prof. Satish Chandra Dr. Kannan	Note making and Note Taking Evaluation – I (5%)
Day - 3	26/06/2017	Critical Legal Studies Prof. Dhanda Feminist Method Prof. Vasanthi	Essential Skills for Researching 1. Understanding the text Structure of abstracts Dr. Uma Chimirala	Movie screening and discussion Prof. Dhanda, Dr. Alice & Dr. Uma	Evaluation Reading Comprehension
Day - 4	27/06/2017	Textual Interpretation (Legal, Feminist and Literary perspectives) Prof. Dhanda Prof. Vasanthi Dr. Alice Samson	Essential Skills for Researching •Foregrounding and Back grounding of concepts Dr. Uma Chimirala	Panel: Challenges of Legal Research in Contemporary India Penalists: 1. Prof. Kalpana Kannabiran 2. Prof. Kamala Shankaran, VC TNNLS 3. Prof. Faizan Mustafa Penal discussions moderated by: Prof. Dhanda	Writing a Short note




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Day – 5	28/06/2017	Law and Society Dr. Kannan	Essential Skills for Researching Critical reading (multiple texts) Strategy 3: Organization of paper and argument structure Dr. Uma Chimirala	Guest Speaker: Prof. Anindita Mukhopadhyaya Co-ordinators: Dr. Kannan & Mr. Siddharth Chauhan	Writing A short note Evaluation – II (5%)
Day – 6	29/06/2017	Perspectives from Social sciences and Law for Research Political ,Theory and Legal Research Dr. Vageshan Economic Theory and Legal Research Dr. Manisha Kulshreshtha Legal Theory in Research Dr. Pathakji	Essential Skills for Researching Strategy 4: Comparing 'introductions' as gateways for the need for the study, relevance and complementarity. Dr. Uma Chimirala	Movie screening and discussions Dr. Alice, Mr. Siddharth & Dr. Manisha Kulshreshtha	Literature Review



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Day – 7	30/06/2017	Research Process Formulating Research Problem: Describing realities, identifying gaps, formulating the research questions Dr Manisha Kulshreshta Rigor and integrity in retelling Stories: Literature Review and Literature Synthesis Dr. Uma Chimirala	Essential Skills for Researching Synthesizing two research papers on a theme: Synchrony between the research problem and literature reviewed (core and penumbra) Dr. Manisha Kulshreshta & Dr. Uma Chimirala Assignment: Comment on the specific themes of 'literature' the researcher has covered? What else SHOULD HAVE been covered? Justify why?	Theme-based group work: Parallel sessions of mentoring by mentors Dr. Kannan Prof. Vasanthi Dr. Alice Dr. Vaagesh	Literature Review along with Annotated Bibliography Evaluation – III (20%)
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Day – 8	01/07/2017	<p>Research Design Dr. Manisha Kulshreshtha</p> <p>Data Collection Dr. Uma Chimirala</p>	<p>Essential Skills for Researching Synthesizing two research papers on a theme: synchrony between the research problem, design and data collection tools</p> <p>Assignment: Evolve an alternate design for one of the papers</p> <p>Dr. Manisha Kulshreshtha & Dr. Uma Chimirala</p>	<p>Theme-based group work: Internal experts Dr. Vaagesh & Siddharth</p>	Identifying the research gaps
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Day – 9	02/07/2017	<p>Data Analysis Working with numbers: Quantitative techniques Dr. Manisha Kulshreshta</p> <p>Working with multimodal texts: Qualitative approaches Dr. Uma Chimirala</p>	<p>Essential Skills for Researching Synthesizing two research papers on a theme: Synchrony between the research problem, data and data analysis</p> <p>Assignment: Evaluate the contribution of the two papers to the 'issue' they are exploring and the specific theoretical underpinnings. Dr. Manisha Kulshreshta & Dr. Uma Chimirala</p>	<p>Theme-based group work: Peer conferencing Mr. Sourabh</p>	Formulation of Research Problem.
Day – 10	03/07/2017	<p>Sources of Data and Technological Aides to research</p>	<p>Essential Skills for Researching Synthesizing two research papers on a theme: Synchrony between the data analysis and theory Dr. Manisha Kulshreshta & Dr. Uma Chimirala</p>	<p>Pitfalls and prospects while researching Dr. Manisha, Dr. Uma & Dr. Neha</p>	Formulation of Research Problem. Evaluation – IV (20%)




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Day – 11	04/07/2017	Identification of issues for discussion with and facilitation of interactive session with supervisors Dr. Kannan	4.00-5.00 report on meeting with supervisors	-	Research design
Day – 12	5/07/2017	Presentations 10-11.30 12.00-1.30 2.30-4.30			Evaluation of Research proposal and presentation.
Day – 13	6/07/2017	Presentations 10-11.30 12.00-1.30 2.30-4.30			Evaluation of Research proposal and presentation V (50%)



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Report on the 9th Global Intellectual Property Conference (GIPC 2017) at New Delhi from 11-13 of January

IPR Chair was the knowledge partner to the **9th Global Intellectual Property Conference (GIPC 2017) at New Delhi from 11-13 of January.**




The 9th GLOBAL INTELLECTUAL PROPERTY CONVENTION (GIPC) was the Largest Congregation of IP Professionals in the World 7th Edition, 240+ Sessions, 2100+ Participants, 35+ Countries.

The theme of 9th edition of GIPC was Synergizing invention, investment and innovation. Synergizing invention, investment and innovation is at the core of economic growth of every country and is aimed at converting invention into real marketable product.

Some of the important topics covered were –

Synergizing Invention, Investment and Invention; Harmonization of Patent Laws; Developing Strategic IP Portfolios - Seeing Beyond Patents; Trade Secret Laws and Their Impact On Industry; IP Enforcement; Best Practices for Handling Risk Evaluation And Mitigation Strategy; Patent Truths & Untruths in India; Navigating The Interface of IP and Anti-Trust Laws; IP Markets New Value Creation Strategies; Patent Expert System Based On E-Knowledge; Robotics, Artificial Intelligence, Humanoids and Intellectual Property Rights; How Brands Can Prepare for The Second Round?(GltDs,3d Printing, Virtual Reality); Biosimilars: State Of Art In Various Jurisdictions; Landscaping Patent Information For IP Strategies; Critical IP Issues In Practice By In-House IP Experts; Exhaustion Of IP Rights - Building Business Strategies; Technology Transfer- Addressing Thorney Issues; IP Evaluation – Recent Trends And Emerging Models; Compulsory Licensing and Public Health; Startups And IP; Frand-Sep- Figuring the Larger Picture.




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GLOBAL INTELLECTUAL PROPERTY CONFERENCE,

(11th -13th January), 2017, NEW DELHI

DAY 1:

A. INAUGURAL SESSION (09:00-11:00am)

Speakers: Dr. Dhanpat Ram Agarwal, Naresh Prasad, Dr. K.S. Kardam, Prof. Dr. Heinz Goddar, Howard B. Miller, Hari Subramaniam, Prof. Dr.-Ing. Sigrum Schindler, Chandran B. Iyer, Manish Agarwal, Dr. Malathi Lakshmikumaran, Dr. Ashwini Sandu

Summary:

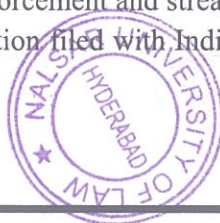
The theme of 9th edition of GIPC was Synergizing invention, investment and innovation. . Synergizing invention, investment and innovation is at the core of economic growth of every country and is aimed at converting invention into real marketable product. The core idea of innovation comes from scientists from their years of efforts. Innovators understand the need of consumers and bring innovation into the market. Investors and government provide capital required to bring innovation into the market and convert into an economic asset. Synergising capital resource and intellectual resource will provide good sustainable development. Law is necessary for successful innovation.


US approach towards patenting has changed from lenient to stringent. US patent system is failing US patent owners. Patents were granted to software until 1006. In a landmark judgment, US Supreme Court severed the exclusionary right in patents and refused to grant injunction. This leads to a question "How US patent law is falling short off".

The emerging trend of startups globally has encouraged government to invest in it. In the time lag between invention and innovation, government has an important role to play. These start-ups come up with lot of ideas but due to lack of funds, community is deprived of invention. Start-ups need to be educated about the IPR system and how their invention can be protected under IPR system. Article 7 of TRIPS – promotes technology transfer.

The Patent Regime should not be viewed as a system that creates absolute monopoly preventing competition but instead the objective of the patent system is creation of a system generating possibilities of sharing, participating in patentable solutions.

India ranks 66 globally in the list of most innovative economies. India is rated as one of the competent patent offices among 15 ranks. It is significant to note that Government of India has taken several initiatives for ip enforcement and streamlining IP filing process, as per the statistics available, 88% of Patent Application filed with Indian Patent Office in 2007 was through online




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mode. Also several MOU's (Memorandum of Understanding) by DIPP (Department of Industrial Policy & Promotion, India) with USPTO (United States Patent Office) and JPTO (Japan Patent Office) leading to adherence to best industry practices such as exchange programs involving patent examiners and training the patent officers.

B. PLENARY SESSION I (11:30AM to 1:30PM)

SYNERGIZING INVENTION, INVESTMENT AND INVENTION

Moderator: Anubhav Kapoor (General Counsel, Tata Technologies)

Speakers: Dr. Stephan Wolke (Head of IP Services, Thyssenkrupp AG), Hari Subramaniam (Managing Partner, Subramaniam and Associates), Pravin Anand (Managing Partner, Anand and Anand), V. Lakshmikumaran (Founder and Managing Partner, Lakshmikumaran & Sridharan)

Summary:

Indian Patent Office registers 45,000 patents annually, seventh largest patent filing country after United States, China, Korea, Japan and patents granted by European Patent Office (EPO).

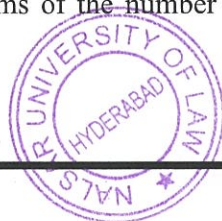
Spending on Research and Development (share of Gross Domestic Product)

Year	China	India
1996	0.57	0.63
2014	2.05	0.85
(1996-14)	300	33

Number of Patent Officers and Patent Examiners and Agents

Description	China	India
Patent Officers	7	4
Patent Examiners	9000	750
Patent Agents	10,000	1,500

On perusal of the above statistics, we can appreciate the need for having a robust National IPR Policy having certain targets in terms of the number of the patent filings to be achieved, for



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example, China declared the target of achieving 20,00,000/- patents by 2020 and China by 2017 has already achieved 10,100,000 patents. It becomes imperative to foster IP culture so as to catalyze innovation and convert them to marketable products.

Some of the reasons for India to be lacking behind China can be attributed to - Higher standards of Patentability (Sec.3(d) and Sec 3(k)) governing pharmaceutical patents and software patents respectively that are besieged by lack of legislative history and judicial interpretations that needs serious revisit and align with the standards employed by other jurisdictions such as US, Canada and Japan. Existence of provisions such as Pre Grant and Post Grant Opposition , revocation and counter claim infringement are comprehensive in nature, it is one of the factors hampering the quantum of patent filings in India.

Therefore it becomes imperative for promoting a culture that encourages and fosters innovation, promoting re profiling fr achieving successful IP strategies (examples being 3M Scotch Tape, Sony electronics) besides strengthening legal mechanism.

C. TECHNICAL SESSION I [3:00-4:30]

Harmonization of Patent Laws

Moderator: Dr.M.Lakshmikumaran (Director, IPR, Lakshmikumaran and Sridharan)


Speakers: Beat Weibel(Chief Counsel, Seimens), Juergen Dressel(Head Global Patent Litigation Strategy, Novartis Pharma AG), Rahul Vartak(Director - Patents Roche)

Summary:

Harmonization of Patent Laws is the need of the hour considering the state of play in the current pharmaceutical arena and also relating to Computer Related Inventions (CRI) at the global level.

In this session, it is significant to note that the speakers discussed, the law relating pharmaceutical patents in India under Sec.3(d) of The Patents Act 1970 was analyzed not using the traditional comparative method of comparing it to American and UK jurisdiction laws but with BRICS (Brazil, Russia, India, China and South Africa).




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No patent regime has ever concretely defined 'efficacy' in the context of pharmaceutical patenting. Further uncertainty is created by the use of various similar terms ex: effectiveness, relative efficacy, comparative effectiveness research, efficiency, added therapeutic value and so on.

The main Section 3(d) requires the 'enhancement of the known efficacy' while the Explanation requires the derivatives to 'differ significantly in properties with regard to efficacy.' The standard of proof regarding efficacy in the main section is lower than that of the standard that has to be met than that given in the explanation and more complex in nature due to uncertainty regarding what quantum of enhanced efficacy would actually be considered significant.

The Supreme Court held that in case of medicines, whose function is to cure disease, the test of efficacy can only be "therapeutic efficacy".

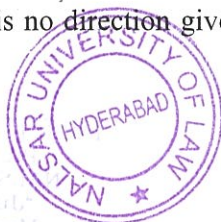
On examination of expert affidavits submitted by Novartis according to which the following properties exhibited by the Product demonstrated its enhanced efficacy over Imatinib were analyzed:


- (1) More beneficial flow properties
- (2) Better thermodynamic stability
- (3) Lower hydroscopicity
- (4) 30 % increase in bio-availability

The Supreme Court held that the first three properties of the Product related to improving processability and storage, which did not amount to demonstration of enhancement of therapeutic efficacy over Imatinib Mesylate which is a requirement for passing the test of Section 3(d).

With regard to the criterion regarding increase in bio-availability of 30% The Supreme Court accepted that increase in bioavailability could lead to enhancement of efficacy but it has to be specifically claimed and established by research data.

The Judgment is silent on whether increase in bioavailability can amount to enhancement of therapeutic efficacy if backed by research data demonstrate such increase established by research data. The decision of the Supreme Court has determined what does not amount to therapeutic efficacy but there is no direction given as to what parameters amount to therapeutic efficacy.




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Section 3(d) of The Patents Act 1970 highlights unresolved confusion between what is patentable and what is patent eligible.

The following recommendations were made in the conclusion of the session -

- (1) Foster strong and steadfast interaction of patent examiners at international level.
- (2) Devise common international standards for patentability, patent examination and enforcement,
- (3) Promote high quality and efficient patent examination process resulting in enhancement of legal understanding and certainty.

D. TECHNICAL SESSION II [3:00-4:30]

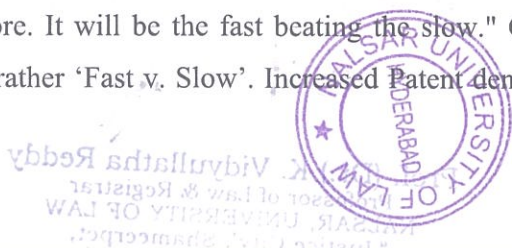
DEVELOPING STRATEGIC IP PORTFOLIOS - SEEING BEYOND PATENTS

Moderator: Lakshika Joshi, General Counsel and Head- IP Licensing, Nucleus Software

Speakers: Thomas A. Haag(Partner, Seyfarth Shaw LLP), Munish Sudan(Head - IP, TATA Steel), Maaïke van Velzen(Head of IP portfolio management, Philips)

Summary: India as a country has moved to being a knowledge economy, everything is rapidly moving and the boundaries are critical. There is intellectual property all around us and therefore we should protect it. Intellectual Property can be used as a tool for furthering the business prospects. An intellectual property rights related strategy should be absolutely aligned with your business strategy. The highly efficient way to maximize our Intellectual property investment is to align our IP portfolio with specific business outcomes, as this one has proven to be highly efficient and financially befitting course of action. However, the challenge is to remain relevant across all ends of the value chain and the key product portfolio needs to be enriched on a continuous basis. An Intellectual Property portfolio should have a balanced approach. It should strike a balance between needs of a customer and that of the needs of market and technology.

Rupert Murdoch quoted as follows: "The world is changing very fast. Big will not beat small anymore. It will be the fast beating the slow." Game is on and it is no more a 'Big v. Small' fight, rather 'Fast v. Slow'. Increased Patent density has created a whole new approach towards



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IPR management system. Increased speed requires high quality Intellectual Property and a very skilled IP team.

Key product portfolio needs to be enriched on continuous basis. Long term Intellectual Property portfolio recommendations includes increasing attention for trade secret, integrated intellectual asset management and prioritizing enforcement actions. Intellectual Property should be taken as an enabler for business rather than means to it.

E. TECHNICAL SESSION III [3:00-4:30]

TRADE SECRET LAWS AND THEIR IMPACT ON INDUSTRY

Moderator: Dr. Niti Dewan(Head of Patents & Business Development, R K Dewan & Co.)

Speakers: Howard Miller (Partner Girardi & Keese), James Martin(Partner DMH Stallard), Dr. Syed Tarique Abdullah(Daiichi Sankyo, India Pharma), Professor Kamal Puri(Queensland University of Technology).


Summary: Trade secrets are protected by confidential agreements. The issue arises when there is breach of such agreements. There is no statutory protection for trade secrets in UK, but UK is one of the most well developed regimes for its protection. The European Union Trade Secret Directives addresses three key areas which are well established in UK:-

1. Providing a consistent definition of trade secrets and how it can be protected.
2. Remedies in the event of misuse of trade secret
3. National courts ensure non disclosure of trade secrets during legal proceedings.

European Union Directives addresses three rights for trade secrets holders and remedies available to them. Leading case in UK- *Vestergaard Frandsen v. Bestnet Europe Ltd.*(2013)

Commonly known as “the Mosquitos Net Wars case” in which it was held trade secret protection extends even after Termination of employment and the employee is entitled to use his own knowledge and skill but not trade secret. Parallel action was taken in India by Delhi High Court in *MVF 3 APS & ors v. Mr. M SIVASAMY & ors.*




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Three stages test was evolved for the protection of trade secret:

1. Necessary quality of confidence.
2. Obligation of confidence which include post termination obligations
3. Misuse of trade secret.

In US trade secrets are protected through 3 statutes – Uniform Trade Secrets Act, Defence Trade Commission statute. Trade secret can be protected offensively and defensively. Trade secret has become important in US where civil actions can be taken for infringing trade secret.

Legal Position in India

- There is no separate statute governing confidential information or trade secret.
- An attempt in this direction was made in the draft of the innovations Act, 2008, which was made public for receiving comments.
- The draft bill enunciates that in the event that there has been a breach of confidentiality or a trade secret, the owner of such information shall have the remedy of seeking injunction and payment of damages.
- The provisions are also applicable in case of apprehension of breach of confidentiality.

An attempt was made to draft law- National Innovation Act, 2008 but the same could not be passed. However, judicial precedents afford effective protection to trade secrets.


F. TECHNICAL SESSION IV [5:00-6:30]

IP ENFORCEMENT

Moderator: Chitra Iyer;

Speakers: Omesh Puri(LexOrbis), Hironobu Hattori(Nakamura & Partners), Dr. Carl-Richard Haarmann(Boehmert & Boehmert), Dominic Keating(USPTO).




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Summary: For the enforcement of IP rights –compensation, injunctions and damages can be granted as remedies for infringement. Enforcement of IP in digital world poses challenges in cases of:

1. Online violations Eg. metatagging ,
2. Audio-Visual violations eg. Torrent, Youtube etc.
3. Cinematograph film that get pirated before its release which has negative effect on box office.

There must be direct association with infringement in accordance with section 79 of IT Act.

Advise the virtual world:

- There has to be vigilant team to keep a check.
- There should be regular audit of IP portfolio.

The German Practice on Preliminary Injunction Orders (PIO) protects against unjustified enforcement.

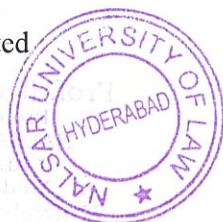
In Germany, preliminary injunctions, orders border seizures, police raids are some of the remedies available for enforcement of IP rights.


How to obtain a PIO

- A request for preliminary injunction can be filed with the locally competent IP courts.
- Prior warning necessary
- IP owner needs to show

that he is the owner of a granted German patent/ German part of European patent and that there is reason to assume that the underlying patent is valid. Moreover, that there is clear case of infringement and defendant is responsible for infringement.

How is a PI Granted




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- IP court (district court issues the preliminary injunction within 48hrs without oral proceedings and without notifying the defendant. Court may reject the request or summon oral proceedings.

How are PIO enforced

Upon service of PI, the defendant must obey the orders immediately.

Legal remedies for the defendant

Appeal to the civil court will summon oral proceedings which depend from case to case.

General strategy is to avoid/ reduce preliminary injunctions, custom seizure and police raids.

G. TECHNICAL SESSION V [5:00-6:30]

BEST PRACTICES FOR HANDLING RISK EVALUATION AND MITIGATION STRATEGY

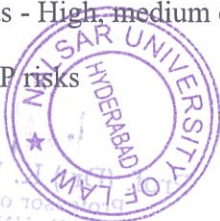
Moderator: Bart van Wezenbeek(V.O. Patents & Trademarks)


Speakers: Achim Schafers(MultiLink Germany GMBH), Shekhar Guha(Tata Consultancy Services) and Ashima Katara(Hindustan Liver Limited)

Summary:

IP Risk Assessment and Exposure Evaluation becomes critical for any company to devise in order to strengthen and guard their patent portfolio, for which the following steps need to be taken:

- 1) Identification of IP risk situations and threats
- 2) Identification of factors contributing to occurrence of each risk situation and threat such as number of people, quantity and value of IP assets, revenue, competitors and jurisdiction of operation etc
- 3) Scoring each contributing factor on a defined scale for each risk situation
- 4) Summarisation of overall exposure score for risk situation on same scale
- 5) Classification of impact as - High, medium or low
- 6) Mitigation - Addressing IP risks




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Proactive Mitigation - Further classified in Preventive mitigation (prevents occurrence of risk impact) and contingency mitigation (effectively deploys curative actions) and *Reactive Mitigation* (reduction or elimination of risk impact on occurrence) are two main classification of approaches to IP risk mitigation.

IP Governance - Monitoring, Tracking, Learning and Improving IP strategies

- 1) Risk assessment should cover all policy statements and operating principles pertaining to IP
- 2) Risk assessment and exposure evaluation must be carried out of each business unit and for every risk situation.
- 3) Clear definition of mitigation actions to be taken for every risk situation
- 4) IP risk management exercise should be put through a governance cycle comprising of implementation of learning (review frequencies, corrective actions and course changes as desired), review of parameters such as situations, impact, exposure and nature of occurrences, metrics gathering (record of changes in environment influencing risk parameters) and recalibration (judicious tweaking of parameters).
5. Regularly conducting IP audits that include IP risk reviews.

H. TECHNICAL SESSION VI

PATENT TRUTHS & UNTRUTHS IN INDIA

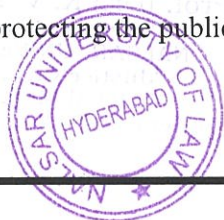
Speakers: Aditi Subramanyam(Subramanyam & Associates), Dr. Gayatri Bhasin(Subramanyam & Associates), Aaysu Mahla(Subramanyam & Associates) Subramanyam & Associates).

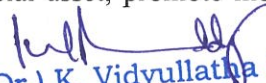
This time in the history of Indian patent law it is more important than ever to provide a balanced view of Indian jurisdiction particularly to Innovative companies.

While there are certain truths about our IP laws that are unfortunate and also unavoidably truths.

There are also some untruths ,floating around most important the myths that India as a jurisdiction anti innovative perhaps progenetic. We like to see young or nascent jurisdiction. India is not a nascent jurisdiction ,we may not have as many as case laws as other jurisdiction and therefore courts are less experienced then other jurisdiction but we are by no means young.

As a matter of fact ,recently we have new IP policy released by ministry of finance ,the stated aim of policy makers is to push IPR as a marketable financial asset, promote motivation and entrepreneurship while protecting the public interest.




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We certainly have an enormous market and have reasons to optimistic and more than enough reason and not to dismiss as market with as much as potential. India's refusal to recognize patents on some of Western drug makers' most profitable medicines has been the cause of considerable rancor between New Delhi and governments in the U.S. and Europe, who say India is failing to adhere to global intellectual-property rules.

There can be no denying being tough on patents could cost India substantially in foreign investment—and that means lost jobs and growth. The country's pharmaceutical sector was expected to grow to at least \$48.8 billion in sales by 2020 from \$11 billion in 2012, according to PricewaterhouseCoopers. Novartis AG, the Swiss company, has said it would reconsider launching new drugs in India after losing a court battle in 2013 to get a patent approved. Pfizer Inc. said at the time it was, "concerned about the environment for innovation and investment in India."

The fact of the matter is that Indian law is strict in limiting what can and cannot be patented – and, local activists argue, justifiably so. Foreign pharmaceutical companies and their political allies may not like that, but it is hard to argue – morally, at least — against India's approach.

Patents are designed to reward a person's or a company's invention by preventing others from copying and selling a product. That gives the patent holder a monopoly on supply. And pharmaceutical companies work hard to gain and extend such protections.

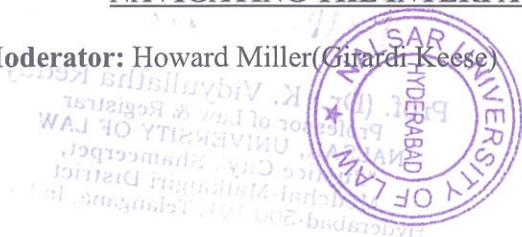
India's law sets a higher bar for protection than in some other countries, limiting the ability of companies to get patents for new versions of drugs whose active ingredients were previously known unless they can show significant therapeutic benefit. U.S. and European patent laws more readily grant patents to updated versions regardless of whether they offer major improvements in efficacy over the original compounds.


DAY 2

I. PLENARY SESSION II

NAVIGATING THE INTERFACE OF IP AND ANTI-TRUST LAWS

Moderator: Howard Miller (Girardt Keese)




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Speakers: R. Parthasarthy(Lakshmikumaran & Sridharan Attorneys), Dominic Keating(USPTO), Abhai Pandey(LexOrbis), Subodh Prasad Deo(Saikrishna & Associates), Santanu Mukherjee(Ex Lege Chambers)

Summary:

IPRs provide restricted market exclusivity to incentivize innovation. Competition/Anti-trust law ensures free and fair market conditions. Competition law and IP do not appear to be conflicting with one another but they work together to achieve the purpose of protection of consumer, research and development.

To this end, what is required is a balance that seeks to ensure sufficient rewards that seeks to ensure sufficient rewards for the innovator to disclose his invention while at the same time preserving the competitive, open internal market, providing the best quality products at the lowest prices. However, IPRs grant monopoly to right holder unfettered. If they misuse their rights then competition commission of India must be empowered with IPR and competition specific guideline in order to deal with those cases.

J. PLENARY SESSION III [11:30-1:30]

IP MARKETS NEW VALUE CREATION STRATEGIES

Moderator: Hari Subramaniam(Subramaniam & Associates)

Speakers: Martyn Fish(HGF Law), Gianfranco Matteucci(Marks & Clerk Singapore), Daniel Altman(Knobbe Martens), Harnik Shukla(Knobbe Martens)


Summary:

Speakers representing South Asian Region, United States and European presented with their new market strategies for value Creation.

European Union up with current EPO working and its defects of complexity, costly affair and partial coverage of European Union. The current scenario included prospective Unitary Patent (as a single patent with unitary effect across Europe) as an effective approach. It would allow patents within 1 month from the date it is up and working (which is not hopefully by 2017).

It incentivizes up by single renewal fee for UP covering states, minimal translation and jurisdiction within UP courts.




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Language within option for translation are English, French and German and it is a no portfolio or opt –out consideration validating both traditional /classical patent and unitary patent ,the UP Courts are also a unique body to authorize these new patents.

Extremely helpful for Pharma, cost conscious client, potential investors and industries not seen revocation action, this new market strategy is an effective cost saving strategy with better coverage.

ASEAN economic community (31/12/2015) envisions to transform ASEAN into a region with free Movement of goods, services, investment, skilled labor and free flow of capital. Amongst all Singapore has been a rising branch in filing patent applications followed by Malaysia and Indonesia. This made Singapore an IP hub for initiative with work towards various legal dispute resolution mechanisms develop at faster rate.

Incentivizing project facilitation, funding and cash grant while focusing Rand Design, IP acquisition, registration, consultancy are major positives by Singapore.

With Research Innovation enterprise 2020, MoU with India in 2016, ASEAN patent examination co-operation, PPH agreements trans-pacific partnership, Madrid protocol, and Hague agreement the South East Asian Region is slowly but steadily moving towards better IP regime in IP market.

U.S Patent introduced two models for value evaluation to review innovation and protect your innovation with IP and create new market as 1st and exploit market as 2nd.

The weak patent protection earlier with subject matter and eligibility challenge followed by case laws showed strengthening status of patent laws.

AIA post grant proceeding toughened the proceeding by a notch higher review requirements.

Usage of CBM for section 101 invalidation and PGR'S on first to file patents were highlighted in the session

The reason for popularity of AIA's proceeding regarding cost, time to trial, standard of proof needed, claim construction were discussed with focus on offensive and defensive strategies.

K. TECHNICAL SESSION VII [3:00-4:30]

PATENT EXPERT SYSTEM BASED ON E-KNOWLEDGE

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Moderator: Prof. Dr. Heinz Goddar (Boehmert & Boehmert)

Speaker: Prof. Dr. Ing. Sigrum Schindler (Teles PRI), Prof. Bernd Wegner (Teles PRI), Dorte Schonberg (Teles PRI)

Summary:

The session focused on the need to create a prior art base for deciding on patent eligibility with the help of technology. Prior art is required for analyzing decisions and creating criteria of patents filing which will boost investigation and examination process called, "*feature analysis to decide patent-ability*" of any requested filed.

These need to put in mathematical formulae and codes through the matrix to identity prior art to compare and analyze along with given citations to get desired results. Some specifics would be:

-It will reduce research work and human input by 10%

-Give speedier results

-Boost examination process

-Reduced fee and quick results

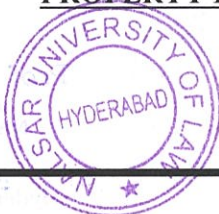
Infringement could be easy to detect and is a great help for clients, companies etc. and is helpful in creating more business opportunities.

E-Knowledge is a collective data in algorithms friendly with system to create a database for reference and analysis purposes thus reducing burden on human efforts shifting it on technology.

Mathematical contribution towards system, its knowledge management, and philosophical basis of the same were session highlights and a practical demo of the entire process was a helpful insight for understanding of quantification of information process that goes in at different levels with special reference to compound and elementary concepts.

L. TECHNICAL SESSION VIII

**ROBOTICS, ARTIFICIAL INTELLIGENCE, HUMANOID, AND INTELLECTUAL
PROPERTY RIGHTS**




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MODERATOR: PROF. PRABUDDHA GANGULI, TEZPUR UNIVERSITY

SPEAKERS: RAVI BHOLA, K&S PARTNERS , D.P. VAIDYA, LAKSHMIKUMARAN & SRIDHARAN ATTORNEYS, IRENE KAFEZA, KAFEZA LAW OFFICE, RAJIV BHATNAGAR, ANAND AND ANAND

Summary: The Present-day legal framework is not sufficient for this technological era. Technological advancement has given birth to robots. Artificial intelligence is exhibited by machines which are capable of self-learning. It is a field which is actively growing and changing. According to WIPO study, artificial intelligence has potentially “far-reaching” impact in almost all areas of human activity. IBM Watson artificial intelligence is applied to health care, legal research, cyber security, market research industries. IBM patented many artificial intelligence. On the positive side, robots are beneficial to the human race but on the negative side, robots will create a threat to jobs, depreciation of income because of their super human skills.

Issues relating to Intellectual property are raised which include patent filings and ownership issues. The product developed by artificial intelligence will give rise to ownership issue- whether such product is owned by the human developer of artificial intelligence or artificial intelligence itself as well the question of liability of product of artificial intelligence arises. Existing laws are insufficient to protect against the unique threats posed by AI. It is undisputable that artificial intelligence will replace human beings and create a deficiency of jobs in the market.

In the real dimension, chips are embodied into humans enhancing human capabilities making them super humans. The legal status of super human’s progeny is questionable. Ten years down the line what will be the definition of human. If the definition gets blurred, then the laws will get blurred and the entire concept of humans comes under dispute.


M. TECHNICAL SESSION IX:

HOW BRANDS CAN PREPARE FOR THE SECOND ROUND?(GLTDS,3D PRINTING, VIRTUAL REALITY)

MODERATOR: Dr. D. Venkat Reddy(RVR Associates)

SPEAKERS: Dr. Claudia Pappas(Thyssenkrupp AG), Dr. Deepti Tayal(Ingenious e-brain solutions), Vaibhav Vutts(Vutts & Associates LLP)




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Summary:

1. Scientist are faster than lawyers and hence lawyers are one step behind.
2. Various questions came up during the discussion such as whether 3D printing is "Democratization of design or copycats paradise?" "Do we have to reprint the law."
3. 3D Printing may change the game as consumers will become producers.
4. GTLD'S :- When it comes to a brand ; a name is everything .

The advantages of opting gtl'd's are various such as –shorter , more memorable domain name, unique business identification.

5. Virtual Reality is expected to reach 171 million and therefore use and work of IP people is going to rise. There are various problems arising because of virtual reality one for such is the question of protection of "Publicity rights"-publicity rights protects only natural persons –what will happen to a very famous avatar.

N. TECHNICAL SESSION X

BIOSIMILARS: STATE OF ART IN VARIOUS JURISDICTIONS

Moderator- Dr. Malathi Lakshmikumaran (Director, IPR, Lakshmikumaran & Sridharan)

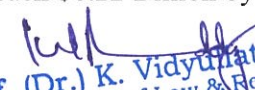
Speakers:- Jay A. Erstling, (Of Counsel, Patterson Thunete IP), Richa Pandey (Partner, Krishna & Saurastri Associates), Shantanu Basu (Patent Attorney, Schwegman Lundberg & Woessner, P.A), Archana Shanker (Senior partner, Anand and Anand)

Summary:

For understanding 'Biosimilars' one must be a biologic first. But then technology changes too fast for any one's taste and one cannot ignore technology as it keeps on giving you new challenges. Humans are born as 'worriers' and such is so because we have so much to use, explore as well as exploit.

Biosimilars are important because they help people in obtaining health care benefits by offering affordable prices. The global Biosimilar market is expected to reach \$6.22 Billion by 2020 from




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\$2.29 Billion in 2015. India is one of the most potential market for Biosimilars. Major market players in India for Biosimilars include Biocon, Dr. Reddy's Laboratories, Zydus Cadila, Wockhardt, Intas, etc.

In the field of Biosimilars, the crossroads at which India is, the two important issues include difficulties in approval pathway as well as the current state of medical practitioners in India i.e., to say that most of the medical practitioners in India are unaware of the Biosimilars. But the market for Biosimilars is spot on and therefore the practitioners must be retrained. In India, we have a growth rate of 30% in the market of Biosimilars. With such a large potential in Biosimilar, India is an emerging market.

O. TECHNICAL SESSION XI [05:00PM- 06:30PM]


LANDSCAPING PATENT INFORMATION FOR IP STRATEGIES


Moderator: PROF. PRABUDDHA GANGULI(Tezpur University)

Speakers: TERRY LUDLOW(Chipworks), MS. SUDHA KANNAN(Aditya Birla Science & Technology Company Ltd.) POOJA KHEMANI(Tata Consultancy Services), SATISH TIWARY(Airbus), XITANG XIE(Shanghai Patents & Trademark Law Office)

Summary:

Patent landscaping refers to a process of performing comprehensive search for patents in a given technical discipline. This exercise becomes important at every level of value chain for integrating the subject matter of patent application into innovation process and cycle, both at pre and post protection levels. Landscaping provides knowledge to support strategic decision making and generating confidence in decisions that initiate rational fact based actions. Factors to consider while patent landscaping and successful IP strategy: portfolio size, Portfolio impetus, citation velocity, patent fences, geographic extent, and claim quality. Success in patent landscaping cannot be achieved absolutely in all cases and circumstances because of constant influx of data that forms prior art for the invention in question. However, to obtain reliable results, the inventor or attorney performing patent search should have 100% clarity in terms of the inventive step entailing the invention in question. IP strategy should be aligned with future business strategies.




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An example of which is Amazon Prime air for which Amazon was granted patent by US for counter measures to protect drone delivery.

Having an IP strategy becomes critical for the purpose of aligning a specific existing segment with future businesses and having IP strategy becomes significant at every stage of business as it progresses – at adoption or inception stage, growth stage and expansion and the same leading to maturity stage (acquisition of strong portfolios, licenses) fostering innovation.

P. TECHNICAL SESSION XII [17:00-18:30]

CRITICAL IP ISSUES IN PRACTICE BY IN-HOUSE IP EXPERTS

Moderator: Guojun Zhou (Managing Patent Counsel-Asia Pacific, Intel Corporation));

Speakers: Chitra K. Iyer(head of Philips Intellectual Property & Standards, Philips), Sr. S. Senthil Kumar(Head-IP, ABB Global Ind & Services), Maaïke Van Velzen(Head of IP Portfolio Management, Philips), Rahul Vartak(Director-Patents, Roche), Vanessa P. Bailey(Senior Intellectual Property Counsel, Intel Corporation).

Summary:

The panel of experts was put up with an array of different questions by the moderator who began with the following questions to be discussed upon by the speakers.

The session began with the moderator questioning “*What is the Rationale of filing a e-working statement and how far is e-filing a reasonable step towards development of IP*”. The speakers gave their views on the matter with the range of answers from, the need of working statement or e-filing of patent requests to balance the monopoly and intention of correctifying the pharmaceuticals industry, to, the need of value creation since the intention seems lost.

The answer led to a connecting question of “*How do you assess the value of patent filing?*” The answer to it was found in the fact that India being a developing country should show development and that can be tracked to some extent with the level of patent filings. The goal ultimately is the benefit of society and furtherance of development with the innovations. The patents shall not be blocked for usage and availability to people shall be sustained with the need to know. Filing makes information potentially visible in the market place and the challenge is to deal with it. The matter closed with a consensus



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amongst speakers that it is time to unify and seek government intervention towards change in law to meet the purpose.

Another issue framed by the moderator was, “*Effect and Response on the latest amendments to the Patent rules.*” The session saw a unanimous welcoming response to the latest amendments and its potential to upgrade the protection and competition in the market. It has increased the promptness towards the evaluation process. The span to get grant and taxability is also reduced along-with the viable option of Video Conferencing and an option of refund in case of non-filing.

The issues taken up later was the “*need of Preliminary Injunction and exhilarated application*” that brought a wide ambit of sundry response on these matters with the territorial diversity playing a major role.

The discussion culminated in the end of the session on the *National IPR Policy introduced in India and how welcoming is it in the global facet.* The discussion went to lengths by highlighting aspect of the ability of the policy to commercialize IP. It seems to be very able looking, well balanced in terms of global environment and creating awareness and true domestic IPs. It was also argued on points of balance of foreign and domestic IP owner’s interests and potential benefit for foreigners that climaxed into the fact it is supposed to enhance domestic filings.

DAY 3

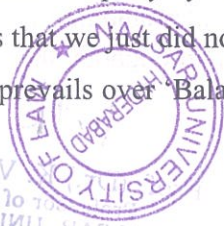
Q. TECHNICAL SESSION XIII

EXHAUSTION OF IP RIGHTS - BUILDING BUSINESS STRATEGIES

Moderator- Hari Subramaniam(Managing Partner, Subramaniam & Associates)

Speakers - Prof. Dr. Heinz Goddar(Partner, Boehmert & Boehmert), **Soh Kar Liang**(Director, Ella Cheong LLC), **Nandan Pendsey**(Partner, AZB & Partners), **Hemant Singh**(Partner, INTTL Advocare).

Summary: Our Intellectual Property system is not nascent. Our system is more than hundred years old, the problem is that we just did not grow much in these hundred years. In today’s world ‘Balance of Confusion’ prevails over ‘Balance of Convenience’. It is better to have an expensive



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drug that cures people from cancer rather than to have no drug for it at all. The debates on IPR are more emotive rather than based on facts and analysis.

Formulation of business strategies involving IP rights includes generation of ideas, knowing value of potential innovations, strategizing for IP assets, etc. Building business strategy involves managing patent costs. These are: 1) Patent cost management 2) Prioritizing Jurisdictional Value 3) Centralizing: Translation and Filing. While evaluating and analyzing IPR risks and opportunities it is very important to configure how we choose to trust the data because our analysis and strategic decisions are as good as our data. Therefore, it is necessary to have Patent Information Professionals whose task is searching, identifying and evaluating documents for Novelty, Patentability, Legal Status, Due Diligence, etc. We should validate search and analysis skills like for example identifying the most appropriate 'prior art' etc.

Intellectual Property risk assessment and governance involves protecting the company's vision, mission and values. IP risk management is an overall process, it involves evaluation of impact of risk situations, determining mitigation actions. IP risk governance steps goes in a circular pattern: Review, Learn, Recalibrate and Incorporate. IP risk assessment and exposure evaluation involves identifying IP risk situation and threats, identifying factors contributing to occurrence of each risk situation and threat and scoring each contributing factor.

R. TECHNICAL SESSION XIV [11:00AM-12:30PM]

TECHNOLOGY TRANSFER- ADDRESSING THORNEY ISSUES


Moderator: Dr. S.K Murthy(Patent Council, Intel India)

Speakers: Dr. H Purushotham(Chairman and Managing Director, NRDC), Dr. Yatin S. Karpe(Associate Director, LehighUniversity), Jayant Kumar(VP-Technology Management, TEC Edmonton), Shlomo Cohen(Founder, Dr. Shlomo Cohen & Co.)

Summary:

The session began with the moderator explaining the understanding of technology transfer in IP and the need. A number of issues were approached throughout the session explaining and detailing on:




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1. *License v. Assignment* of Intellectual Property where the preference was aligned towards license as a more desired mode of transfer.
2. *Equity v. Royalty* where royalty is a more of an incentivizing opportunity
3. *Conflict of Interest* which is of two types
 - Styled to Researcher/Investor
 - Styled for balance in academic and private efforts where the mechanisms have to be managed to provide benefit to the researcher.

Example: Login Radius (2012) where initiatives by Indian students for data encryption have undergone rapid growth where student's owned the company.

Issues also included the recent change undergone in transfer of technology with more organizations, since technology is universal in nature and transition need proper regulation. Issues arise in international or cross-border transfers which needs encouragement. The issues arise even in the governing law clauses and jurisdictional issues. With the changes recently jurisdictional issues facet has seen leniency on the licensor's part in dealing with the initial issues.

Another issue involved also touches upon the *anti-competitive clause* in technology transfer. Commonest causes included licensee's lack of contesting the content of patent leading to confusion, invalid registered patents that were not in public interest, post expiration of licenses because free trade has become more easy but has contrast with basic IP principles as IP issues are largely Territorial in Nature besides being Universal and exhaustion of rights.

There are certain institutions like University of Alberta in Canada and Organizations like NRDC in India that help facilitate technology transfers and reach license agreements. There is need to align these issues to achieve successful technology transfer by bridging these gaps.

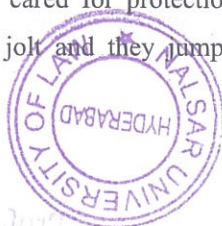
S. TECHNICAL SESSION XV

IP EVALUATION – RECENT TRENDS AND EMERGING MODELS

SPEAKERS:, Dr. A.K.S. Bhujanga Rao(NATCO Pharma), Gregory L. Maurer(Klarquist Sparkman), Mrinal Jain(Ernst & Young)

Summary:

IP is a basic R&D sustenance/ evaluation Model. IP is not new for Indian Pharma Industry novel processes were invented but never cared for protection and exploitation. It was only in 2003 – The Gleevec Case gave the industry a jolt and they jumped into action and started focusing towards IP compliance.



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IP evaluation and Portfolio Management is a cross functional interaction between the technical and non-technical components. One of the important factor to be considered while evaluation IP is - Study on the number and nature of existing non infringing patents. Having a country wise data analysis on IP evaluation boosts industrial growth .

There are several licensing models that facilitate exploitation of IP such as:

- Compulsory License
- Voluntary License (Gilead case refers a special mention)
- Negotiated License

Evaluation of identified IPRs associated with a molecule. Basically, evaluation is a process by which fair value estimate is derived by analyzing similar intangible assets that have been sold or licensed and comparing those transactions to subject intangible asset.

Three approaches to evaluation of IP to ascertain quantum of damages in case of infringement :

1. Income based - Based on after tax cash flow. The value of subject intangible asset represent the present value of incremental cash flow attributable to intangible asset
2. Market based
3. Cost based - Based on the principle of availability of substitutes. For ex: in case of a software - questions relating to replacement cost or reproduction cost has to be factored in.

The following are the cost control concepts one has to bear in mind while meeting prosecution costs in US

- Setting clear goals
- Cost v. Risk (need to make an informed decision)
- Addressing Rules (Procedural)
- Addressing Law (Substantive) involving complete understanding of the invention in question, impugned prior art, complete description of invention and fully claiming invention.

T. TECHNICAL SESSION XVI [10:00-12:30]

COMPULSORY LICENSING AND PUBLIC HEALTH

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Moderator : Hemanth Singh(INTTL Advocare)

Speakers : Dr. Calab Gabriel (Lex IP Care), D.r. C.K. Sehgal (Sehgal IPR Services), Dr. Markus Engelhard (Boehmert & Boehmert), Prof. Dr. V.C.Vivekanandan (NALSAR University of Law)

Summary:

The debate around Section 3(d) of The Patents Act 1970 highlights the classic dilemma of striking a balance two conflicting interests – Protecting the Rights of Patentee (*minimalist patent framework*) vis-a-vis Safeguarding Public Health (*maximalist rights paradigm approach*)) when faced with question on patent grant relating to pharmaceutical patents.

The jurisprudence for IP protection lies in Natural Rights Lockean Theory, Hegelian Personhood Theory and also Benthamite Utilitarianism.

The effect of the grant of a patent is quid pro quo, quid is the knowledge disclosed to the public and quo is the monopoly granted for the term of the patent. Incentive is crucial for IP to exist and access to innovation seems equally important and therefore to strike a balance between the two becomes equally critical

The concept of compulsory licensing is not of a recent origin and can be traced to Paris Convention leading up to TRIPS, however, it was only in Doha Ministerial Conference that reaffirmed emphasis on public health and for creating mechanisms facilitating better access to generic drugs. Corresponding provisions to compulsory licensing can also be found in Canada, Japanese, Chinese and American patent jurisprudence.

The cornerstone of Compulsory Licensing provision is Public Interest. In the case of pharmaceutical patents, access to drugs becomes non negotiable and the prevailing gap between investment and access to drugs becomes critical.


Though Compulsory Licensing Provisions seem to be vigorous hampering the businesses of pharmaceutical companies, there are sufficient procedural and legal safeguards - 3 tier judicial review of the decision of patent rejection - viz Intellectual Property Appellate Tribunal, High Court at State Level, Supreme Court at national level and at finally at Dispute Settlement Body at World Trade Organization.

Though *Natco v. Bayer* marked significant victory for public health over monopolistic patent right, it is interesting to note that there are equal number of cases where strong case were made against grant of compulsory license on grounds of mala-fide interests of parties.

U. TECHNICAL SESSION XVII [11:00-12:30]

STARTUPS AND IP




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Moderator-Shantanu Basu(Patent Attorney, Schwegman Lundberg & Woessner, P.A)

Speakers - Yohei Sugahara(Director, Japan External Trade Organization), **Rajeev Gupta**,
(CTO, Reliance Jio Infocomm Ltd.), **Krishna Grandhi**(Founder, Grandhi Law Chambers)

A discussion on topic relating to 'Startups' is very important for a country like India. Starting a company is about creating something new that will in some way large or small, change the world. But before starting any startup, when a person goes for grants and funds; the only kind of right that the person carries is an Intellectual Property right.

Startups create new ways of doing things. They provide us with improved invention that cater the needs of the consumers. Small and medium scale enterprise are rapidly becoming conscious of the necessity of managing a company by focusing on Intellectual Property Rights. The mantra for provisional application is to file early and to file often because provisional patent application filing is so inexpensive that there exists no excuse why one should not file an application.

V. TECHNICAL SESSION XVIII [11:00AM-12:30PM]

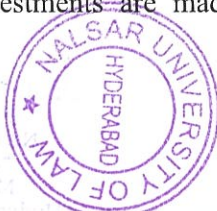
FRAND-SEP- FIGURING THE LARGER PICTURE

Moderator: Patrick C. Keane(Managing Partner, Buchanan Ingersoll & Rooney PC)

Speakers: Dr. Sheetal Chopra(India Lead-IPR Advocat, Ericsson), Dr. Stefan Schohe(Partner, Bohemhart & Bohemhart), G. Deepak Srinivas(Partner, LexOrbis), Sanjeev K. Tiwari(Partner, K&S Partners)

Summary: Exchange of technology between patentee and prospective licensee can be done through license agreement on FRAND terms. A patented technology that is determined to be an essential aspect of a technology standard is called a standards-essential patent (SEP). When innovators create products that tie in with technology standards, they will most likely utilize standards-essential patents. The innovator needs to license the use of these SEPs. Within standard-setting organizations (SSOs), FRAND and RAND terms are established so that the licensing rates are made available on fair, reasonable, and non-discriminatory terms.

The FRAND license balances the inequalities between the interest of patentee and licensee. FRAND license is a complex task to arrive at. Generally patentee is reluctant to enter negotiations when large investments are made and situation is further complicated by the



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availability of information in public domain. An array of ideas were put through the session deliberating solutions which were:


1. *Transparency in negotiation process*- negotiation of price is the key issue and publication of royalty rate before hand
2. *Change in inherent mindset*- price is not key issue but inherent mindset of people, unwilling to pay pre-published prices, needs to be changed.

Apple has sought higher rates and injunctions for its non-SEP patents.

Indian scenario is in a tug of war between logic and emotions. Value of technology and standard has both reached heights but there is downsizing by the court's side. FRAND license balances the inequalities between the interest of patentee and licensee.

FRAND license is a complex task to arrive at. Generally Patentee is a reluctant to enter negotiations when large investments are made and situation is further complicated by the availability of information in public domain.




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