

EDITORIAL

Recent times have been extremely crucial for the development of intellectual property law particularly in India. Certain developments have very effectively highlighted the increasingly important role played by intellectual property law in today's times in both social as well as economic diaspora. The World Intellectual Property Organization (WIPO) took concrete measures on June 28, 2013 to end the tragedy of 'book-famine' faced by people with visual impairments, by signing an international Treaty to improve the status of access to books, journals and other published materials by visually impaired people. The 'Marrakesh Treaty' is touted as the first intellectual property covenant with an express reference to Human Rights; highlighting the increasing interplay between intellectual property rights and other branches of law.

Closer home, India acceded to the Madrid Protocol on April 8, 2013, with the Protocol coming into effect in India on July 8, 2013. The Madrid Protocol is an international system which seeks to facilitate the registration of Trademarks on a global scale, across different jurisdictions. This system helps the party filing for registration of a Trademark to obtain protection of his trademark across multiple nations by filing a single application with the filing party's own national/ regional Trademark Office.

Certain recent decisions have also reaffirmed faith in the Indian intellectual property litigation machinery. In the case of *M/s Gillette India Ltd v. M/s Harbans Lal Malhotra & Sons Pvt. Ltd.* (ORA/51 & 52/2005/TM/KOL AND M.P.No.392/2012 IN ORA/51/2005/TM/KOL), the Delhi Circuit Bench of IPAB, Chennai on June 21, 2013 adjudicated on a matter involving the usage of the Trademark 'CHAMPION' for razor blades. The IPAB stressed the need for international business ethics to be followed, and prevented the applicants from curbing the economic activities of a relatively minor business entity. Similarly, in a path-breaking development with regard to the functioning of the patent system in India, the Patent Office has, for the first time ever, brought into the public domain all Statements of Working which were filed by each and every patentee in 2012. Under Section 146 of the Patents Act, 1970; the Controller General is empowered to demand from the patentee a Statement (specified under Form 27) regarding the commercial working of the patent. This step is bound to go a long way in increasing the efficacy and the transparency of the patent system in India.

The current issue, the fifth volume of the IJIPL, offers snapshots of the legal developments in the field during this past year. We are fortunate to have the opportunity to publish contributions from three guest authors in this issue.

Ms. **Srividhya Ragavan**, Professor of Law at the University of Oklahoma School of Law, is a frontline researcher of the impact of intellectual property law in developing nations. In this issue, she analyzes the issues faced by biodiversity protection mechanisms in their interaction with the trade regime on the one hand, and the impact on India in its interplay with biodiversity and trade mechanisms on the other.

Ms. **Sheetal Chopra**, in her capacity as Head of the IPR Division at the Federation of Indian Chambers of Commerce and Industry, offers a unique perspective located at the intersection of legal practice and industry concerns. Her piece dealing with the concept of Technological Protection Measures (TPM), exposes the inadequacies of the Copyright (Amendment) Act, 2012 in protecting data against piracy.

Mr. **J. Sai Deepak's** experience in litigating IP issues in this country, and reputation for continuous yet comprehensive analysis of patent decisions in particular, make him the ideal candidate to pick apart the Supreme Court's recent decision in *Novartis v. The Union of India*.

Our student entries begin with **Arnab Naskar** and **Shubhangi Gupta's** analysis of emerging Digital Rights Management technology. Following a comprehensive examination of the issues, IPR and related, surrounding this extremely controversial family of technology, the authors offer particularly interesting criticisms of the state of the Indian law pertaining to the issue.

The next piece examines the latest Indian development in an issue that has long divided the international community – compulsory licensing. Moving beyond the interpretation of domestic law in the Supreme Court's ruling this year in *Natco v. Bayer*, **Deepika Sekar** and **Aishwarya H.** examine the current Indian position in light of the nation's international obligations under the TRIPS.

Continuing with the framing of Indian law in an international context, **Ramyaa Veerabathran** follows the investigation of Google's

Adwords policy across jurisdictions into our own, where match-making mega-corporate Consim Info's litigation against Google progresses steadily up the judicial system. Dissecting the doctrine of initial interest confusion, Ms. Veerabathran conclusion suggests that we may be searching for solutions in the wrong field of law altogether.

Marrying current concerns with jurisprudential analysis, the next article attempts to offer a solution to the increasingly subversive use of patent rights, by examining the philosophical underpinnings of Intellectual Property Law itself. **Tarun Krishnakumar's** appeal to Locke, Bentham and Kant, among others, raises key questions about when intellectual property just isn't intellectual property.

Finally, **Samira Varanasi** and **A.S. Vishwajith** tackle an issue that has communities, corporates and Governments at odds with each other across the globe. In establishing a strong right in personal information as the key to achieving informational efficiency, the authors offer a re-framing of the privacy debate that may well appeal to the pragmatist.

This edition concludes with **Professor V.C. Vivekanandan's** review of a unique contribution to the annals of India IP literature – Dr. Uday Shankar's & Saurabh Bindal book, "Constitutionalizing Intellectual Property".

In sum, we have drawn from the diverse communities invested in Intellectual Property law practice and research to produce an edition that blends analysis of current developments and historical concerns. We hope that this offering does justice to what has been an eventful year in Indian IP law.

Regards
The Board of Editors
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