

Book Review

INTELLECTUAL PROPERTY MANUAL*

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Intellectual Property Rights have received special attention since the Uruguay Round of Negotiations. These are said to be “the creations of human mind, may be an inventive work, or even distinctive signs or marks”. These creations, however, must have a commercial value. The growth engines in the 21st century’s boast, namely the Knowledge Economy, are purely knowledge-driven, and are supposed to be neither landed property nor gold, the eternal temptation of mankind. The focus today is on creation/innovation of knowledge and application of knowledge and adding value to this knowledge.

The phenomenal growth of science and technology during the latter half of the 20th century has led to demands for a newer form of IPRs. The protection, IP-related information and the increasing dominance of the new knowledge economy are highly complex issues that need to be tackled in a professional way. Another matter of recent concern has to do with the so-called traditional knowledge, protection of which, hitherto, had never been considered an issue, but is now causing ripples in the information highway, thanks to multinationals actively engaging in capturing and patenting such traditional knowledge they come across in the course of their business. The community property of common concern to all had never faced the threat of invasion. The best examples to mention include the revocation of US patent for turmeric powder for wound healing, supported by evidence that information relating to his invention was in public dominion; which was actually the result of CSIR’s efforts. The nations with advanced technologies have a major role to play in the emerging knowledge economy. Building the capabilities by fostering through dissemination and transfer of technologies, collaborations and supportive programs would narrow down the gap between developed and developing countries.

The major concern for India is the process of globalization that threatens the appropriation of the collective knowledge of societies into property knowledge for the commercial benefit of all of us. The need of the hour is to protect the fragile knowledge system through conducive domestic policies and link it to international conventions of IPRs. These threats can be overcome by enhancing

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capabilities in building good infrastructure, greater awareness of issues and solid competency on IPR issues.

Against this backdrop, the book written by Avinash Shivade, himself an eminent and well known advocate known to have wide exposure in IPR cases, copy right and trademark infringements, is a timely and valuable addition to the existing literature on IPRs. This manual is highly relevant to those who seek benefit and take advantage of the knowledge economy which is the chief trend of the present century. The book is a good compilation of various IPR legislations at the national level with a useful annexure. The introductory chapter is quite lucid and the author ably conveys the stark fact that there has been a dearth of material on IPRs since 1980 in India. The spate of literary work on IPR may be said to have started from 1995 with Trips agreement as mandatory provisions for the WTO member countries. A very pertinent observation made by the author is that though the Indian constitution has made freedom of speech a fundamental right of every citizen, not much space has been allocated in the Indian constitution to the matter of protection of IPRs. Comparison is made with the U.S. Where the focus is more on IPR protection. Case law and commentaries on the articles of various legislations go a long way in providing for better clarity and understanding of thoughts.

The chapter relating to Patent Act 1970 as amended in 2002 deals with the subject quite extensively with in-depth explanations and case discussions on Patent Law infringements. The author mentions which cases of IPR violations will be filed only at high courts or which in district courts. The author has evidently taken great pains to incorporate landmark cases on infringements of trademarks the cases of *N.R Dongr v Whirpool* and *Win Medicin v Somacere* laboratories are of particular interest to the reader.

The unique feature of the manual is the literature regarding PCT filing, an important procedure that is to be learn for entering into multilateral trade agreements Through the PCT filing, it is possible to apply for patent in more than one country The procedural aspects are well covered in the relevant chapter. The recent legislations on geographical indications and plant varieties and farmers' rights are value additions to the commercial reader. This enactment lays down a detailed procedure regarding registration of geographical indications and for better protection to related goods. This is the first legislation enacted within India A detailed procedure regarding registration, penalties, jurisdiction limitations, are all well discussed.

In sum, a comprehensive picture to the reader emerges. Information regarding the fees applicable and the annexure at the end of each chapter gives ready-made information to the advocates and should make their job easy and comfortable indeed. This manual is fit to be recommended as a study book for L.L.B students and a reference copy to the advocates, dealing with patent cases and most emphatically must find a shelf space in all reputed libraries in the country.