



NEWSLETTER

ITAG BUSINESS SOLUTIONS LTD.

(A subsidiary of TCI Finance Ltd.)

AN ISO 9001:2008 & 27001:2005 ORGANISATION
www.itagbs.com



Trademark protection is the need of the hour specially when the trade and investment is growing beyond the national boundaries in today's globalised world. It had been very difficult and costly affair to register trademark in each individual country but with the amendment of the Trademark Act as passed in both houses of the Indian Parliament, it seems that doing business in India and abroad with due protection of trademark will become much easier. The Trademarks (Amendment) Bill 2009 will enable implementation of the Madrid Protocol and thereby no separate registration of Trademark will be necessary in more than 80 countries who are the signatories to the Madrid Protocol of WIPO. In other words business entities and residents in any country including India who are the members of Madrid Protocol will be eligible to register its trademark in their respective countries of origin and get the full protection from any infringement in all the member countries. The Bill is awaiting the assent of the President of India and will become operative after it is signed by the President of India and duly notified in the Official Gazette.

Apart from trademark amendment, the Copyright Amendment Bill has also been placed before the Rajya Sabha on 9th April 2010 and has been referred to Parliamentary Select

Committee consisting of 10 members for their consideration and opinion. The bill seeks to give independent rights to the lyricists, composers and singers as the authors of literary and musical works in films. It also talks about the payment of royalties to these professionals. The Bill also addresses the concerns of the music industry and joint ownership of the Producer and Director. Amendments are being made to bring the Act in conformity with the World Intellectual Property Organisation (WIPO) Internet treaties, namely WIPO Copyright Treaty (WCT) and WIPO Performances and

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IP Management can empower business entities by creating and unlocking the value of intangibles
”

Phonograms Treaty (WPPT) which have set the International Standards in these spheres.

The Indian IP laws have undergone several changes in the past few years in order to comply with the requirements and obligations under several International Treaties including World Trade Organisation (WTO) under TRIPS Agreement and under several Treaties signed with World Intellectual Property Organisation (WIPO). It is high time that Indian Business houses become more aware and alert about the rights and

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obligations about Intellectual Property Laws which alone can empower them to create Intellectual Property Assets and unlock the value of their intangibles.

ITAG is engaged and is fully dedicated to the cause of creating and protecting ideas and innovations by providing 'end to end' solution in all spheres of Intellectual Properties including Patent, Trademark, Designs, Copyrights and Trade Secrets. It has organised several workshops, seminars and conferences of International standards throughout the country and is organizing its next international conference in Singapore in January 2011 and on Intangible Valuation in Mumbai in the 1st week of December 2010. It is our earnest request to Business Community to come forward and take benefit of our expertise through our network of own offices throughout the country and in major cities in Asia Pacific.

- **Dr. D. R. Agarwal**

IPR NEWS - INDIA

MAHINDRA SATYAM WINS LAWSUIT AGAINST UK'S UPAID

Mahindra Satyam, a Hyderabad-based IT firm has won a lawsuit filed by Upaid in the Supreme Court of the State of New York against deduction of income tax on the amount to be paid by the Indian IT major for the settlement of a patent dispute. The Court rejected Upaid's plea seeking settlement amount of USD 70 million from Mahindra Satyam.

The court has declared that the settlement agreement requires that Upaid co-operate with the escrow agent, IDBI Bank, to allow the agent to withhold any applicable taxes from the USD 70 million settlement amounts. Upaid will pay around \$38.5 million, which is 55 per cent of the settlement amount.

Mahindra Satyam had settled a US lawsuit filed by Upaid seeking damages from Satyam for forging its patent application documents in December 2009, with Satyam approving to pay \$70 million for the deal. But both the companies fought over who will pay income tax on the settlement amount. Satyam maintained that Upaid has to pay the tax as the settlement amount is an income to the

firm as per the Indian law.

Satyam Enterprise Solutions, a subsidiary of Satyam Computer Services Ltd, had developed software for Upaid, which wanted to patent the technology and sought consent of 20 Satyam employees, who worked on the project. Satyam had helped Upaid get the signatures, some of which were forged, resulting in Upaid losing its patents infringement case against telecom companies Qualcomm and Verizon.

The Mahindra group took over scam-hit Satyam in a government bailout last year and was branded Mahindra Satyam.

FICCI LAUNCHES IPR FACILITATION CENTRE IN DELHI

FICCI has launched an IPR Facilitation Centre at New Delhi, in association with the union Ministry of Micro-Small and Medium Enterprises (MSME). This centre aimed at increasing the competitiveness and growth of MSME industry would provide general counseling about IPRs, like, patents, trademarks, designs and copyrights and services related to patent searches, patent drafting, patent prosecution etc. The centre has a panel of legal and technical experts to provide support in this regard.

Micro-Small and Medium Enterprises contribute significantly to India's economic growth. 45 per cent of the manufacturing output and about 40 per cent of the total export of the country is taken care of by these MSMEs which are mostly unaware of the importance of IP protection. This FICCI-IPR facilitation centre would help the MSMEs in properly protecting and leveraging their intellectual resources.

GI STATUS FOR UDUPI GULLA SOON

The fabulous Udipi Matti Gulla would soon receive the Geographical Indication tag. Though there are many varieties of brinjal in India, this exceptional variety that grows in a small stretch between Udyavara River and Malpe in areas like Mattu, Udyavar and Kaipunjalu has a distinct aroma and texture.

Botanically referred to as Solanum melongena var. esculenta Nees, the colour of the brinjal vary from different shades of violet, pink, white or green and are elongated or round. Gulla found in the Udipi district of Karnataka is less astringent, round and green in colour and it has a thin skin which nearly gets dissolved on boiling. It has less number of seeds too.

IPR NEWS-AROUND THE WORLD

AMAZON PATENTS LOCATION-BASED MOBILE SEARCH TECHNOLOGY

Amazon.com has received two patents, one related to providing location-based search information for mobile devices and the other patent granted was for "Providing location-based auto-complete functionality."

The patents filed in June-July last year are assigned to

A9.com, Amazon's internet search unit based in Palo Alto.

Amazon had received a patent for a "System and method for providing search results based on location" in July 2009.

NESTLE AND SARA LEE IN COFFEE WAR

The Swiss food giant Nestlé and Sara Lee an American food group are clashing over the Nespresso. Nestle has enjoyed worldwide monopoly

on the lucrative espresso pods that fit its coffee-making machines.

Nespresso has accused its rivals of making cheaper copycat pods thus violating the intellectual property it created to make a convenient homemade cup of coffee. Nespresso's competitors had recently made an effort to market their coffee pods and venture into Europe and the United States. They accuse

IPR NEWS-AROUND THE WORLD...(contd.)

Nestlé of trying to prevent them from entering one of the fastest-growing sectors of the market: pods now account for 20 to 40 percent of the value of ground coffee sales in the \$17 billion European coffee market.

Since 2000, when Nespresso was launched, the company has sold more than 20 billion capsules through its boutiques. The price of its machines starts around \$190 and rise beyond \$2,500. Nestlé owns around 1,700 patents on its personal espresso system, many of which are set to expire in 2012.

Sara Lee has recently launched its own plastic perforated version of the capsule, the L'Or, priced at 37 cents in French supermarkets

and has sold 30 million capsules so far. The company also has a low-cost version of a espresso machine, the Senseo, which is a top seller in the American market. About 27 million Senseo machines were sold in the last decade, compared to about eight million Nespresso machines.

ADVAXIS PATENTS CANCER FIGHTING TECHNOLOGY

Advaxis, a biotechnology company specializing in developing vaccines to fight cancer using the Listeria bacterium, has been granted a patent which will protect its Listeria vaccine technology.

The issued patent would also protect three engineered strains of Listeria that have been developed for use as human vaccine vectors.

Advaxis technology is based on the ability of antigen-adjuvant combination proteins to stimulate an immune response against cancer and infectious disease, when it is produced and secreted by live Listeria.

Listeria is a gram-positive, rod-shaped bacteria commonly found in soil, stream water, sewage and food. This bacterium is responsible for listeriosis, a lethal food-borne infection.

Advaxis is currently using its Listeria technology to develop two novel vaccines for prostate cancer and another for various types of cancers including breast and brain cancer. Advaxis now has a total of 28 patents in its portfolio with 44 pending applications.

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GLIMPSES OF JUDGMENT ON IPR

TRUEPOSITION WIN \$43 MILLIONS IN CELL PHONE PATENT BATTLE AGAINST ANDREW CORP.

FACTS: The Plaintiff TruePosition, a subsidiary of Liberty Media Corporation, is a leading provider of wireless location technologies and solutions. Previously TruePosition had taken action against Andrew for infringing a patent directed to use of technology known as Uplink Time Difference of Arrival (UTDOA) to determine the location of wireless phones on the wireless system's control channel, which allows the location of phones to be tracked even when they are not in use. TruePosition's Patent No. 5327144 (hereinafter '144') or "control channel" patent is particularly important for safety and security applications. During the September 2007 a Delaware District Court Jury found that Andrew was involved in willful

infringement of the said '144' patent while it was involved in selling its Geomatrix wireless location system to the Saudi Telephone Company (STC).

In the post-trial proceedings, the District Court awarded TruePosition \$23.25 million in the form of compensatory and punitive damages. Subsequently, Andrew continued to ship products during these post-trial proceedings, and TruePosition re-opened the judgment for further proceedings against Andrew, leading the District Court to award TruePosition an additional \$10.1 million in compensatory damages, \$9.6 million punitive damages, applicable pre-judgment and post-judgment interest, including attorneys' fees. The Court also issued a permanent injunction that

prohibits Andrew Corporation from making, using, selling, or offering to sell the various infringing Geomatrix® products. Thereafter, Andrew Corporation made an appeal before the U.S. Court of Appeals for the Federal Circuit (CAFC).

ISSUES:

Whether Andrew Co. was involved in willful infringement? And whether the damage can be allowed in favor of the TruePosition?

JUDGMENT:

While pronouncing the judgment the Hon'ble U.S. CAFC has found that Andrew was involved in willful infringement by analyzing the whole fact itself and affirmed a \$43 million judgment in favor of TruePosition and awarded permanent injunction against Andrew.

FORTHCOMING EVENT AT ITAG

3rd International Conference on IP Valuation—"Brand Valuation and Securitisation of IP Assets"

ITAG Business Solutions in collaboration with "Intangible Business", London is organising the 3rd International Conference on IP Valuation scheduled on **3rd & 4th December, 2010** at the **Hotel Marriott*, Mumbai**.

* to be confirmed

4th International IPR Conference, IP-East 2011, Singapore

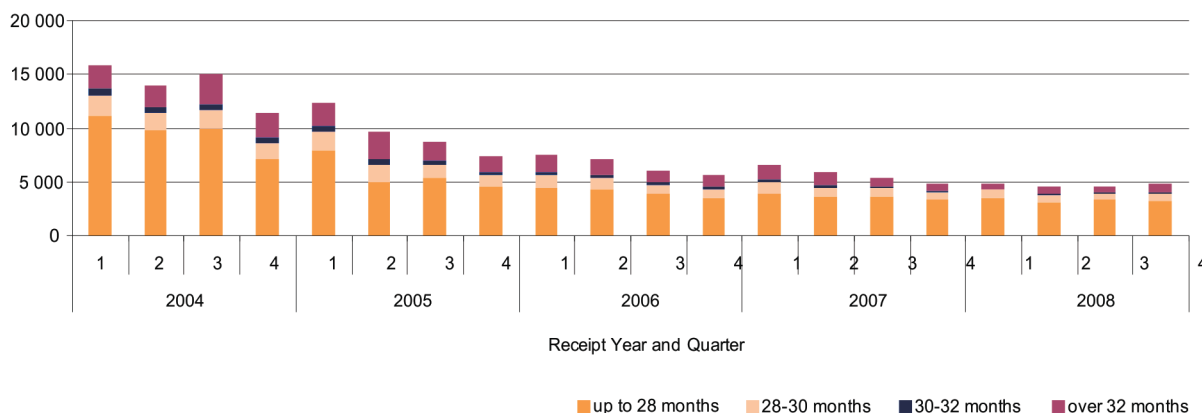
It is a great pleasure to welcome you to the IP-East 2011, two-day International IPR Conference on "**Economic Value of IPR for Business in Competitive Global Markets**" in **Hotel Raffles, Singapore** on 28th and 29th January, 2011. This event will be a platform for emerging opportunities for IPR in the Global Market.

Please visit <http://www.iprconference.com> for more details

SNAPSHOT

The data in the graph below shows the transmittal timeliness of IPERs to the International Bureau.

Timeliness to transmit International Preliminary Examination Reports



Source: WIPO Statistics Database



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