

NEWSLETTER

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GLOBAL IP CONVENTION, 2012 5-8 JANUARY 2012

CONFERENCE HIGHLIGHTS:-

- More than 150 national & International Speakers
- Representatives from EPO, USPTO WTO and WIPO.
- Delegates from all the top notch companies of India.
- Participation of top IP experts & IP lawyers from top Law Firms of the World.
- Brilliant opportunity for Business Development & Networking.
- Interesting new segments like IP Debate Session, Mock Jury Trial, Panel Discussion, MarkMan Hearing-Claim Construction and many more.

Venue: Habitat World, at India Habitat Centre,
Lodhi Road, New Delhi-110003
(Entry from gate number 3 on Vardhman Marg)

ITAG WISHES ITS READERS A VERY HAPPY NEW YEAR 2012

Director's Message



Innovation is the key to economic growth. Economies will become a power house, as people use their creative energies to foster the intellectual cycle with a snow ball effect, where patent system has a key role in the

whole process linking technology, people and capital.

The WIPO Report, 2011 testifies and manifests the growing role of IP as an economic asset. It affirms that the knowledge market based on the IP rights are on the rise as evident from the increase in revenue of royalties and licensing fees from USD 2.8 Billion in 1970 to USD 27 Billion in 1990, and to approximately USD 180 Billion in 2009. The report also confirms that the global R&D expenditures has almost doubled in real terms in 1993-2009, where 70 percent still comes from the developed world which is around 2.5% of their Gross Domestic Product (GDP). The investment in intangible assets have also grown significantly in certain developed countries to as much as 9.1 percent of GDP in Sweden and UK.

There have been several empirical studies carried out by renowned institutions including

National Bureau Of Economic Research (NBER) which says that there is a clear co-relation between innovation activities and the economic growth in the present era of knowledge and technology. ITAG is continuously trying to bring this point about innovation in a focused manner before the policy makers and the entrepreneurs through IP awareness programmes for the past 5 years.

Global IP Convention, 2012 is a step forward in this direction. It is very heartening to acknowledge that more than 150 speakers and about 300 delegates including about 100 international speakers representing USPTO, WIPO, WTO, Indian Patent Office and top IP attorney firms and representatives from renowned innovative companies from around the world are participating at the 4 days IP conclave at the India Habitat Centre, New Delhi.

We sincerely extend our warm welcome to all the speakers and the delegates and also express our gratefulness to all of them for making the event a grandeur. We also convey to all the associates of ITAG, a very Happy New Year, 2012.

- Dr. D. R. Agarwal

IPR NEWS - INDIA

PATENTS ON INDIAN BIO-RESOURCES ENLISTED

The Unit for Research and Development of Information Products (URDIP) of the Council of Scientific and Industrial Research (CSIR) has prepared a database of patents granted world-wide to Indian bio-resources, which include food crops, forest trees, marine organisms, microbial resources, livestock, other animals and agro-resources.

The database project supported by the National Bio-resource Development Board (NBDB), department of biotechnology, New Delhi is part of the NBDB programme on digital inventory of plant resources of India. This list would assist in monitoring the patenting of bio-resources, detection of bio-piracy, commercial exploitation and benefit sharing. The information will be part of the Indian Bio-resources Information Network (IBIN) portal which is expected to be launched in August 2012.

URDIP has already prepared the database on patents on aromatic, medicinal and economic plants (PAMEP) that would be extended to bio-resources for the IBIN portal. The development of patent database on plants and monitoring of claims will also help India take appropriate

action in protecting its bio-resources and traditional knowledge.

BAYER SETTLES TRADEMARK SUIT OVER ANTI-FLEA MEDICATIONS WITH CIPLA

Bayer HealthCare unit has settled a trademark infringement case concerning the German drugmaker's pet products, with Indian drugmaker Cipla. Bayer HealthCare had alleged infringement of trademark rights of its flea preventative medication, Advantage, by Cipla's DA Double Advantage pet treatment. Bayer had sought to block future sales of the product in the United States.

Cipla would stop making the anti-flea product, DA Double Advantage, and selling it to U.S. consumers via the Internet and give up all profits it made from its sale, amounting to \$100,000, and terminate all uses of the trademark. An extra \$100,000 as reimbursement for attorneys' fees would also be paid to Bayer. Cipla has also agreed to recall any product remaining in the sales pipeline, according to the settlement reached between Bayer's Animal Health Division and India-based Cipla Ltd.

Cipla will also discontinue using the trademark 'Advance'

for a companion animal product and not make any product with the same formula as Bayer's Advantix, another patented flea preventative, during the remaining term of those patents.

YASH RAJ FILMS ACCUSED OF COPYRIGHT INFRINGEMENT

Yash Raj Films has been accused of copyright infringement in a lawsuit filed by the producers of a Tamil movie "Naan Avan Illai" against Yash Raj Chopra. They claim infringement of their copyright with YRC's recent film "Ladies v. Ricky Bahl".

"Naan Avan Illai" released in 2007 is a remake of a 1974 movie by the same name and it was a remake of a 1962 Marathi film and play - "To Mee Navhech". The Marathi play relates to a real life incident involving Madhav Kazi, convicted by the Sholapur Sessions Court for impersonating as different men and luring naive ladies to marry him. Kazi's conviction was upheld by the Bombay HC.

The Madras High Court heard the lawsuit over 'Ladies v. Ricky Bahl' on 8th December, 2011, a day before the date of worldwide theatrical release and the plaintiffs were declined an ex-parte injunction.

IPR NEWS - WORLD

ANGELINA JOLIE ACCUSED OF COPYRIGHT INFRINGEMENT

Angelina Jolie has been accused of copyright infringement by a Croatian journalist James Braddock. Braddock has filed a lawsuit against Jolie, Film District and the producers of Jolie's upcoming directorial debut,

"In the Land of Blood And Honey", claiming copyright infringement of his book entitled, "The Soul Shattering". The actress however claims to have written the story for "In The Land of Blood and Honey".

Braddock has claimed Jolie's producer and Croatian contact Edin Sarkic had earlier

approached him and discussed regarding the feasibility of a film adaptation of his book in 2007. Though the adaptation never worked out, Braddock alleges many similarities between his book and Jolie's film.

Braddock has sought injunction against release of the film including damages.

EU-SWITZERLAND GI AGREEMENT COMES INTO EFFECT FROM 1 DECEMBER 2011

The Agreement between the European Union and the Swiss Confederation on the protection of designations of origin and geographical indications (GIs) for agricultural products and foodstuffs has been effective from 1st December 2011. This Agreement adopted on 13 September and ratified on 20 October this year, amends the agreement between the European Community and the Swiss Confederation on trade in agricultural products by adding an Annexure 12 to the Agricultural Agreement. Annex 12 relates to providing for the mutual recognition of protected designations of origin and geographical indications for agricultural products and foodstuffs. Article 7 of this Annex details

the extent of protection granted to the GIs listed in Appendix 1 to the GI Agreement. The direct or indirect commercial use of a protected GI is forbidden (Art. 7(2) Annex 12): (a) with regard to a comparable product which does not comply with the specification; and (b) with regard to a non-comparable product if the use thereof exploits the reputation of the GI in question.

DC COMICS LOSES SUPERMAN TRADEMARK DISPUTE

The international comic and movie company DC Comics and the owner of the Superman license has lost a three year trademark battle against New Zealand-based loans firm Superloans.

DC Comics had filed a complaint against Superloans, which uses a flying superhero – Buck – as its mascot, with

the International Property Office of New Zealand. New Zealand's assistant commissioner of trademarks has ruled that the Superloans's mascot Buck does not infringe on DC's Superman license. Superloans' talisman is similar to a caricature of the Man of Steel, dressed in green with a dollar symbol on his chest. But the commissioner concluded that there are "clear differences" between the two designs.

The shield on Buck's chest with a dollar sign differentiated it from that of the Superman's, and his portrayal holding money went against Superman's humane nature. DC Comics was ordered to pay for a quarter of Superloans' legal costs, totaling to \$3,570 in New Zealand currency (£1,700). DC now has the option to appeal against the ruling to the High Court.

GLIMPSES OF JUDGMENT ON IPR

FEDERAL CIRCUIT AFFIRMS INVALIDITY OF TEVA'S PATENT ON ROSUVASTATIN FORMULATION

FACTS:

In a precedential opinion filed today, the Federal Circuit affirmed the invalidity of Teva's U.S. Patent No. RE39,502 under 35 U.S.C. § 102(g)(2). Teva's '502 patent claims a rosuvastatin formulation comprising "a stabilizing effective amount" of crosopovidone. This post describes the district court decision and provides background on the case.

ISSUE :

Whether, to prove prior invention under § 102(g)(2), AstraZeneca was required to prove that it appreciated the stabilizing effect of crosopovidone in its drug formulation ?

JUDGMENT:

In affirming the district court's answer to that question in the negative, the Federal Circuit traced a line of cases that it said demonstrate "consistent applications of the same rule."

According to the court, an "unrecognized, accidental duplication" is not a prior invention.

There lies no dispute in this case that AstraZeneca manufactured rosuvastatin tablets falling within the scope of the 502 patent claims before Teva conceived and reduced to practice its claimed invention. The Court continued that the prior inventor does not need know everything about how or why

its invention worked. Nor must it conceive of its invention using the same words as the patentee would later use to claim it.

The court explained that AstraZeneca had to appreciate that the formulation it asserted as its invention was stable and what the components of this formulation were. There is no question that AstraZeneca had this appreciation. However, AstraZeneca did not need to appreciate which component was responsible for the stabilization. Teva made other arguments as well, but the Federal Circuit summarily disposed of them.

LATEST ON IP

1. Drug Patent Expirations for the week of December 18, 2011

Tradename	Applicant	Generic Name	Patent Number	Patent Expiration
TROVAN	Pfizer	trovafloxacin mesylate	5,164,402	Dec 18, 2011
PALLADONE	Purdue Pharma Lp	hydromorphone hydrochloride	5,968,551	Dec 24, 2011
PALLADONE	Purdue Pharma Lp	hydromorphone hydrochloride	6,294,195	Dec 24, 2011

Trovafloxacin mesylate, Hydromorphone hydrochloride by the Tradename TROVAN and PALLADONE respectively, have expired on 18th October 2011. Now these drugs are in public domain and can be used for medication.

2. Methods of refining hydrocarbon feedstocks

Processes of converting to feedstocks comprising hydrocarbons to compositions comprising light hydrocarbon products are described herein. Also described are processes and methods of producing and refining compositions comprising terpenes from biomass that can be suitable as a fuel product.

Source: Sapphire Energy, Inc.; December 13, 2011



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