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Editorial

It looks like there is no end to patent controversies in India. Dr. R.A.Mashelkar, the Chairman of the Technical Expert Group on Patent Law Issues has resigned from the Group recently. Earlier, the Group had taken back its report because of alleged plagiarism. The Group, constituted by the Government of India, to make technical findings on two key patent law issues, in its report, found that it would not be TRIPS compliant if India limits patentability in the pharmaceutical area to New Chemical Entities (NCEs). On the question of exclusion of microorganisms from patentability, the Group was of the view that it would violate TRIPS if such exclusion was made. Soon after the Report was submitted, it appeared in the media that the Group's key findings were substantially based on a paper authored by a university researcher. This prompted the Group to withdraw its report and seek three months extension to resubmit it. But as the Government announced the grant of requested time, the Chairman Dr. R.A. Mashelkar resigned.

Another development is a Writ Petition filed by Novartis AG before the Madras High Court challenging the constitutional validity of Section 3(d) of the Patents Act, 1970 (as amended). The TRIPS triggered legal tremors thus continue.

Amidst these controversies comes an important step forward – India's accession to the Madrid Protocol. India's decision to join the Madrid Protocol was announced by the Union Finance Minister on February 8, 2007.

The last ten years have witnessed a paradigm shift in India's IP laws and policies. The changes began with India's accession to the WTO in 1995. This was followed by joining of Paris Convention in December 1998 resulting in the adoption of the PCT system. The nation witnessed a series of amendments in the IP legislations through these years, now the accession to the Madrid System of trademarks registration is yet another step forward.

We, at Lex Orbis IP Practice, are glad to be able to produce useful reading on Indian IP law issues. Our Newsletters reach over 5000 subscribers and we look forward to more well-researched, analytical writings in the future. Thanks for your continued support. ●

Group on Research, Publication & Programs (GRPP)
LEX ORBIS IP PRACTICE

Mashelkar Committee takes back its Report!

The Technical Expert Group on Patent Law Issues chaired by Dr. R. A. Mashelkar (commonly referred to as the Mashelkar Committee) took back its Report amidst allegation that the key findings of the Group were substantially based on a paper authored by a university researcher. The Mashelkar Committee was appointed by the Government of India to enquire whether Indian patent law would violate the TRIPS Agreement, if it limits patentability to NCEs and excludes micro-organisms from patentability. The Committee reported that it would violate TRIPS if India does so.

The key finding of the Committee was that if 'evergreening' of patents is what is sought to be prevented, the way to do it is not by excluding pharmaceutical derivatives from patentability, but through a set of well-crafted patent examination guidelines. "Evergreening" is an expression commonly used by generic pharmaceutical companies to refer to patent term extension strategies of the innovator companies. The Indian generic pharmaceutical industry has been arguing that the TRIPS Agreement permits India to set strict standards of patentability for pharmaceutical products so that only claims with limited coverage are allowed in a patent application for a strict 20 years term. This, according to them, will enable the Indian companies to introduce cheaper generics.

Immediately after the Committee submitted its Report to the Government, it appeared in the media that the Report contained passages from a research paper. The Committee took back its Report and sought three months' time from the Government to re-submit the report and the Government accepted the same. But it is unsure if the Committee will thoroughly revise its findings, including the rationale thereof within the extended time. Amidst the controversies the chairman Dr. Mashelkar submitted his resignation.

Background of the Committee and its recommendations

The Government of India's attempt to make the Indian Patents Act compliant with the TRIPS Agreement has a decade long legislative history. The final step in the process was the introduction of the Patents (Amendment) Bill, 2005 before the Indian Parliament. Numerous provisions of the Bill faced stringent opposition from the Left parties. Some of the amendments proposed by the Left parties and eventually incorporated in the law are flawed from the perspective of substantive principles of patent law. Eventually the Bill was passed on the condition that a committee of experts must look into the following issues:-

- (a) Whether it would be TRIPS compatible to limit the grant of patent for pharmaceutical substance to new chemical entity or to new medical entity involving one or more inventive steps; and
- (b) Whether it would be TRIPS compatible to exclude micro-organisms from patenting

The Government of India appointed a five-member Technical Expert Group comprising Dr. R. A. Mashelkar as the Chairman and Dr. N. R. Madhava Menon, Prof. Govardhan Mehta, Dr. Asis Datta and Prof. Moolchand Sharma as the members.

The Mashelkar Committee Report did not offer an in-depth TRIPS analysis and its findings were that:-

- (a) it would not be TRIPS compliant to limit granting of patents for pharmaceutical substance to New Chemical Entities only; and
- (b) excluding micro-organisms *per se* from patent protection would be violative of TRIPS Agreement.

The findings were very straightforward and to the point. But, from a committee of eminent experts, a well-structured analysis leading to these findings was expected. The Committee concluded that it will neither be TRIPS compliant, nor in the interests of India to exclude pharmaceutical derivatives from patentability. The Committee surveyed patent applications filed in the past by Indian generic pharmaceutical companies and found that a majority of them were directed at pharmaceutical derivatives. As India is far behind in NCE research, the Committee felt that it was in the interests of the Indian industry to make incremental inventions around drug molecules, patentable.

The Committee's recommendation that the Patent Office must develop guidelines to examine pharmaceutical patent applications will be an additional burden on the Patent Office that is already grappling with inconsistencies in the standards and quality of patent examination. On the other hand, it has the potential of forcing the managers of the Indian patent system to switch focus from quantitative issues such as maintenance of offices to qualitative issues such as the flaws in the examination procedure.

The Committee's Findings on limiting patentability to New Chemical Entities (NCEs)

Paragraphs 5.9 through 5.16 at pages 6-7 of the Report contain the rationale used by the Committee to come to its conclusions on its first term of reference (the NCE issue). The analysis is provided under the heading "National

Interests Perspective". The Committee's brief analysis can be summed as follows:-

- (a) "Evergreening" is the concern behind the argument to limit patentability to NCEs.
- (b) A distinction must be drawn between "Evergreening" and patent protection for "Incremental innovations".
- (c) Incremental innovations are of tremendous value for a country like India, and hence must be encouraged.
- (d) It will take at least another ten years for drug discovery research to find its feet in India. Hence if patentability is restricted to NCEs, it would mean that most of the pharmaceutical product patents would be owned by MNCs.
- (e) Based on the type of patent applications filed by Indian companies (as shown in Annexure IV and V of the Report), it can be concluded that mostly the patent applications filed by Indian companies abroad are based on incremental inventions.

Based on the above, the Committee came to the following conclusion:-

"In the light of the above discussion, it would not be TRIPS compliant to limit granting of patents for pharmaceutical substance to New Chemical Entities only. However, every effort must be made to provide drugs at affordable prices to the people of India. Further, every effort should be made to prevent the grant of frivolous patents and 'evergreening'. Detailed Guidelines should be formulated and rigorously used by the Indian Patent Office for examining the patent applications in the pharmaceutical sector so that the remotest possibility of granting frivolous patents is eliminated."

The mandate of the Committee was to say 'YES' or 'NO' to the questions referred to it. And that job was well done. A deeper analysis of the provisions of the TRIPS Agreement and the Indian Patents Act was desirable. If the Committee's logic is that patents on ancillary inventions are in the interests of Indian industry, then Section 3(d) of the Patents Act must be scrapped.

The Government's response to the Chairman's resignation is still awaited. ●

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First PCT, Now Madrid Protocol for Marks

In an attempt to integrate the Indian Intellectual Property Rights (IPR) laws with the international IPR system, the Government of India has taken the decision to join the Madrid Union by acceding to the Madrid Protocol of 1989. The Madrid Agreement, 1891 along with the Madrid Protocol, 1989 governs the system of International Registration of Marks (trademarks and service marks).

Following the decision of the Union Cabinet, the Central Government will now introduce a Bill before the Parliament, to amend the Trade Marks Act, 1999. This is being done with a view to incorporate the International System of Registration of Marks. The Indian Trade Marks Rules, 2002 will also be amended pursuant to the amendments in the Trade Marks Act, 1999. Needless to say, this is yet another welcome initiative by the Government to integrate India's IPR system with the international system.

The Madrid system facilitates registration of Marks in the International Register administered by the International Bureau of the World Intellectual Property Organization (WIPO). A mark registered in the International Register

is granted protection in all the designated member countries, which is equivalent to national registration in nature. Furthermore, the International Registration functions as a bundle of national registrations, thus making subsequent maintenance easier. For instance, there is only one registration to renew. Any changes / alteration in ownership or name and address of the registrant in the International Register can be made through a single procedural step.

Once the legislative amendments are made in the Trade Marks Act, 1999 Indian trademark owners or applicants can apply through the Indian Trademark Registry for registration of their marks in the International Register and designate the countries in which they seek protection. Similarly, the owners of foreign marks can now seek protection of their marks in India by designating India in their International Application or by applying for inclusion of India in their International Registration. Currently, 71 countries are members of the Protocol, 57 countries are the members of the Agreement and 48 countries are members of both the Agreement and the Protocol. This will also facilitate transfer of technology through trademarks licensing. ●

Enforcement of Trademarks in India

A. Civil Enforcement of Trademarks:

Enforcement of trademark rights by way of civil actions, can be divided in two parts:

- (i) For protected trademarks; and
- (ii) For unprotected trademarks

I. Enforcement of protected Trademarks:

Trademarks, which are registered in India under the provisions of the Trade Marks Act, 1999 (the "Act"), are protected trademarks. The rights conferred by the Act upon the proprietor of the registered trademark include right to:

- (a) Exclude others from using the registered trademark in India in respect of goods or services for which the said trademark is registered; and
- (b) Obtain relief in respect of the infringement of trademark.

Infringement of a registered/protected trademark under the erstwhile Act:

A person who, without the consent of the registered proprietor, uses an identical or deceptively similar mark in respect of goods or services for which the said trademark is registered, infringes a registered trademark.

The above is a simplistic definition of infringement, which found its place in the erstwhile Trade and Merchandise Marks Act, 1958. However, pending the necessary amendments in the aforesaid Act, the courts across the nation kept expanding the ambit and the scope of trademark infringement with the expansion of international trade and globalization.

The concepts of "trans-border reputation", "well-known marks", "doctrine of dilution", "Anton Pillar Order", "Mareva Injunction" etc. started making inroads into Indian case laws in the early 1990s.

Some of these path-breaking decisions by the Indian Courts during the period 1995-2003, called for wide-ranging review of the 1958 Trademarks Act.

Recognizing the need for comprehensive changes in the existing law, the Indian Parliament replaced the 1958 Act by passing a new Act, the Trade Marks Act 1999 (the "Act"), which finally came into force with effect from 15th September 2003.

Trademark Infringement under the current Act:

Section 29 of the Act now provides a comprehensive definition of infringement of registered trademark, which includes unauthorized use by a person of a mark which

because of its identity or similarity with the registered trademark and use in respect of identical or similar goods, is likely to cause confusion among the public or which is likely to have an association with the registered trademark.

For "reputed" or "well-known" trademarks, the scope of infringement is further enlarged to include unauthorized use of any identical or similar mark in respect of any goods or services. Provided such misuse is designed to take unfair advantage of, or is detrimental to, the distinctive character or repute of the registered trademark.

Under the new Act, a registered trademark is also infringed, in the following cases, if a person uses or applies the said trademark, as the case may be:

- As his trade name or part of his trade name in respect of goods or services for which the said trademark is registered.
- To packaging or labelling materials, as business paper, or for advertising goods or services, knowing that there is no authorization for such use.
- In disparaging advertisements.

Relief in suits for infringement:

The relief, which a court may grant in any suit for infringement, includes:

- Injunction including *ex parte* injunction or any interlocutory order for discovery of documents; preserving of infringing goods, documents or other evidence which are related to the subject matter of the suit; restraining the defendant from disposing of or dealing with his assets which may adversely effect recovery of cost, damages, etc.
- Damages or an account of profits.
- Order for delivery up of the infringing labels and marks for destruction or erasure.

Jurisdiction

In contrast to the provisions of the erstwhile Act, the current Act provides that a suit for infringement of a registered trademark may be instituted in any District Court (including a High Court with original side jurisdiction, subject to pecuniary limits of the damages claimed) within the local limits of whose jurisdiction, the plaintiff (the person instituting the suit), actually and voluntarily resides or carries on business or personally works for gains. The erstwhile Act, conferred the jurisdiction to courts from where the violators/defendants lived or conducted their business.

II. Enforcement of Unprotected Trademarks:

Section 27 of the Act recognizes the common law rights of

the owner of an unregistered trademark to take action against any person for passing off his good or services as that of the owner of the trademark.

The Act provides identical relief in an action for passing off as available in a suit for infringement of a registered trademark including relief of injunction, damages, delivery up, etc.

The fundamental difference between an “infringement action” and an “action for passing off” as defined by the Courts in India is as follows:

“An infringement action is available where there is violation of specific property right acquired under and recognized by the statute. In passing off action, however, the plaintiff’s right is independent of such statutory right to a trademark and is against the conduct of the defendant, which leads to or is intended or calculated to lead to deception...” – *Printers (Mysore) Private Ltd. v Pothan Joseph* 1960 (3) S.C.R. 713

In order to succeed in action for passing off, the plaintiff must prove

- (a) Its reputation and goodwill in India;
- (b) A misrepresentation by the defendant calculated to injure, as a reasonably foreseeable consequence, the business or goodwill of the plaintiff; and
- (c) Such misrepresentation actually or is likely to, cause damages to the plaintiff’s business, reputation or goodwill.

Trans-Border Reputation:

Protection is afforded to a trade or service mark in India even if the products bearing the said mark are neither manufactured, marketed nor sold, or services under the said mark are not offered in India, provided the said mark has acquired substantial reputation in foreign trade. To understand the view of the Indian courts on trans-border reputation, we may quote the observation made by the Division Bench of the High Court of Delhi in *N.R. Dongre v. Whirlpool Corp.* 1996 PTC (16) 476:

“The knowledge and awareness of a trademark in respect of the goods of a trader is not necessarily restricted only to the people of the country where such goods are freely available but the knowledge & awareness of the same reaches even the shores of those countries where the goods have not been marketed. When a product is launched and hits the market in one country, the cognizance of the same is also taken by the people in other countries almost at the same time by getting acquainted with it through advertisements in newspapers, magazines, television, video films, cinemas, etc. even though there may not be availability of the products in those countries because of import restrictions or other factors...”

Superiority of prior use over Registration:

The principles of passing off are meant to protect the rights of a trader who is the prior user of the trademark in question. Accordingly, in an action for passing off, it is irrelevant whether the defendant is using a registered or unregistered mark. What is relevant is whether by using the mark, the defendant is misrepresenting his own goods as that of the plaintiff.

As held in *Delco Engineering Works v. General Motor Corporation* ILR 1974 [Punjab & Haryana series] 502, *“... an action for passing off is founded on the desirability of preventing commercial immorality or dishonesty by a trader who by using a particular mark, whether registered or unregistered wants to falsely represent that his goods are the goods of some one else so that he can take undue and unfair advantage of the reputation of the other person in the mark. Therefore, it cannot be stated that under section 28 of the Act the statutory right of exclusive use acquired by a trader by registration of a mark is a defence to proceedings for passing off initiated by a prior user of the mark.”*

Deceptive Similarity:

In an action for passing off on the basis of unregistered trademark, the general test laid down by the Supreme Court of India in *Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*, 2001 PTC 541 (SC) had been regularly followed by the Indian courts to decide whether one mark is deceptively similar to the other. The test requires the following factors to be considered generally:

- (a) The nature of marks i.e. whether the marks are word marks or label marks or composite marks i.e. both word and label marks.
- (b) The degree of resemblances between the marks, phonetically similar, hence similar in idea.
- (c) The nature of goods in respect of which they are used as trademarks.
- (d) The similarity in the nature, character and performance of the goods of the rival traders.
- (e) The class of purchasers who are likely to buy the goods bearing the marks they require, on their education and intelligence and a degree of care they are likely to exercise in purchasing and/or using the goods.
- (f) The mode of purchasing the goods or placing order for goods.
- (g) Any other surrounding circumstances which may be relevant in the extent of dissimilarity between the competing marks.

Domain Names & the Law of Trademarks:

The question was raised before the Supreme Court of India in an appeal filed by *Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.* 2004 (28) PTC 566 (SC), whether internet domain names are subject to the legal norms applicable

to other intellectual properties such as trademarks.

The contention of the respondent was that a Domain Name could not be confused with “property names” such as trademarks because a domain name is merely an address on the Internet. It was further contended that the registration of a domain name with Internet Corporation for Assigned Names and Numbers (ICANN) did not confer any intellectual property right and that it is a contract with ICANN allowing communication to reach the owner’s computer via Internet links channelled through ICANN’s server. Thus it is akin to registration of a company name which is a unique identifier of a company but of itself confers no intellectual property rights.

Rejecting the above contentions of the respondent the Supreme Court answered the above question in the affirmative. The Court observed that:

“The original role of a domain name was no doubt to provide an address for computers on the Internet. But the Internet has developed from a mere means of communication to a mode of carrying on commercial activity... A domain name is easy to remember and use, and is chosen as an instrument of commercial enterprise not only because it facilitates the ability of consumer to navigate the Internet to find websites which they are looking for, but also at the same time serves to identify and distinguish the business itself, or its goods or services, and to specify its corresponding online Internet location.”

Accordingly, over the last few years the courts in India have consistently applied the law relating to passing off to domain name disputes.

Some of the leading cases on the domain name disputes between domain name owners, *inter se*, or between trademark owners and domain name owners are:

- *Yahoo Inc. v. Akash Arora* 1999 PTC (19) 201
- *Rediff Communication Ltd. v. Cyberbooth & Anr.* AIR 2000 Bombay 27
- *Dr. Reddy’s Laboratories Ltd. v. Manu Kosuri* 2001 PTC 859 (Del.)
- *Tata Sons Ltd. v. Manu Kosuri* 2001 PTC 432 (Del.)
- *Info Edge (India) Pvt. Ltd. & Anr. v. Shailesh Gupta & Anr.* 2002 (24) PTC 355 (Del.)

B. Criminal Enforcement of Trademarks:

Criminal actions are recommended as well as provided for in the Act, to stem the menace of outright counterfeiting. Counterfeiting is one of the most blatant but unfortunately most prolific forms of infringement of trademark rights in this part of the world including India. Despite stringent provisions in law, as introduced in the new Act, much is

needed to be done to control the menace by active and collective participation of the trademark owners, enforcement agencies, the government and the judicial machinery.

Counterfeiting is a cognizable offence. This means that the occurrence or likelihood of occurrence of offence can be directly reported to a police officer not below the rank of deputy superintendent (or to the Intellectual Property Cells of Police, in cities like Delhi, Mumbai, Kolkata, Bangalore, etc.). Upon receipt of such report, the Police Officer is empowered to investigate the allegations and to search and seize without warrant the counterfeit goods, die, blocks, machine, plate, other instruments, etc. involved in committing the offence. However, before initiating the investigation, the police is required to obtain an opinion of the Registrar of Trademarks on the facts involved in the offence.

The penalty prescribed under the Act for counterfeiting includes imprisonment for a term not less than six months and extendable upto three years with a fine not less than Rs. 50,000 (US \$ 1,050 approx) and extendable upto Rs. 2,00,000 (US \$4,800 approx).

Normally, the offence of counterfeiting goes along with the offence of copyright infringement in artistic works comprised in packaging materials, cheating the consumers and criminal conspiracy as it involves a group of manufactures, distributors, retailers, etc. dealing in counterfeit goods.

In India, the worst effected industries by counterfeiting are:

- Branded cloths, apparels, footwear and accessories, etc.
- Luxury goods including watches, leather goods and accessories, pens, etc.
- Fast moving consumer goods including soft drinks, biscuits, tooth pastes, branded teas, soaps and other toiletries, shaving creams, gels, razors, etc.
- Electrical and Electronic goods including fans, electric appliances, cameras, toys, etc.
- Automotive parts and accessories.
- Drugs and Pharmaceuticals

Sources for collecting information on infringement/counterfeiting:

- a. Search at the database of the Trademark Registry to identify persons/businesses engaged in trade with identical and/or deceptively similar trademarks.
- b. Regularly watching Trademark Journals to identify new comers in business with conflicting marks.
- c. Obtaining information from sales and marketing executives and from distributors and retailers, etc.
- d. Conducting market surveys in metro cities, in case of high-end products or otherwise, in other cities.
- e. In-depth investigation of known source or sources identified in the aforesaid market surveys. ●

WIPO's Development Agenda-Decelerate SPLT?

The dawn of the new millennium made it clear that the US was no longer keen to confine negotiations at GATT, but was veering towards WIPO. Till 1980, WIPO was considered as an important institution, but weak implementation mechanism tilted IPR negotiations towards GATT where it was possible to apply trade sanctions. Rejuvenation of WIPO activities started as the economic interest of certain MNCs was hurt due to the flexibilities available in implementation of patent regime at the national level. TRIPS mandates only the minimum standard for patentability and leaves much to the discretion of the concerned nations. The developed countries realized that once higher standards were adopted at WIPO, it could be automatically exported to TRIPS. They also quickly realized that due to the prevailing geopolitical situation, it would be extremely difficult to raise the IPR standards at WTO. With WIPO being the next accessible route, the WIPO Patent Agenda was presented and approved by the WIPO Assembly, the Paris Union Assembly and the Patent Cooperation Treaty Assembly in September 2001. The Patent Agenda spawns into life mainly through the combined activity of three treaties.

1. Ratification of Patent Law Treaty (PLT)
2. Reformation of Patent Cooperation Treaty, (PCT) and
3. Finalisation of Substantive Patent Law Treaty (SPLT)

The PLT is procedural in nature whereas SPLT deals with the substantive part. The moot concern attached with the SPLT is that while it brings about harmonization in the standards of patentability, it virtually curtails the freedom presently available to nations. The fear expressed by the developing countries is that the attempt of SPLT is clearly TRIPS plus and hence, the member countries would be forced to award patents for those which they have clearly excluded from the ambit of patentability. For example, India does not award patents for computer programme *per se* or business methods, while Brazil does not award patents for living organisms even if isolated etc, whereas these are patentable subject matter under the proposed SPLT.

The ongoing developments in SPLT are unacceptable to the developing countries mainly because SPLT mandates that prior art shall consist of information available to the public anywhere in the world in any form. The difficulty emerges as certain countries exclude non-written disclosures from prior art while some countries include disclosures by prior commercial use of invention as prior art. The "information available to the public" regarded as prior art mulls the question whether the possibility of having access to such information would suffice. Developing countries are natu-

rally quite concerned about the extent to which indigenous/traditional knowledge could come within the parameters of 'prior art'. The difficulty attached to indigenous/traditional knowledge is that most of the 'information' is not available in written form.

Tracking the development of SPLT, it can be seen that the first major attempt harmonizing substantive patent law was initiated by WIPO in 1984, but failed to achieve its objective as the US was not willing to give up its 'first to invent rule.' The concept took a rebirth on 1st June 2000 when the Geneva Convention adopted PLT as a preliminary step towards SPLT. To gear in life PLT required ten ratifications and as Rumania, the tenth country, could exercise ratification only in January 2005, the treaty congregated into force in April 2005.

The tug-of-war between the developed countries and the developing countries emerged in the informal discussions at Casablanca, wherein developed countries argued that WIPO's Standing Committee on Patents (SCP) should focus only on four issues, namely - prior art, novelty, grace period and inventive step, which are the subjects pushed by the developed countries in the SPLT negotiations. Sufficiency of disclosure and genetic resources, the other two grounds actively pursued by developing countries, could be dealt by Intergovernmental Committee on the Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC).

The discrepancies between the developed and developing countries have led to the creation of the Development Agenda. The year 2004 earmarked an era, as the 31st WIPO General Assembly accepted and assured the Development Agenda mooted through a joint proposal made by Argentina and Brazil (the so called Group of Friends for Development). The proposal gathered immense support from other developing countries and non-governmental organizations as they emerged voicing support in favour of the Agenda. The proposal suggested that development is the heart of all WIPO programs and activities and the objective of WIPO is to contribute to the fulfillment of the Millennium Development Goals. In consequence the General Assembly of WIPO in October 2005, reached an agreement to constitute and continue a Provisional Committee to accelerate and take forward the Inter-governmental Inter-sessional Meetings (IIM) process and to report back with recommendations if any, to the General Assembly in 2006. The Provisional Committee, in its first session, held from February 20 to 24, 2006 adopted a draft agenda containing 111 proposals clustered under six themes, viz.

- Technical Assistance and Capacity Building.
- Norm Setting, Flexibilities, Public Policy and Public Domain.
- Technology Transfer, Information and Communication Technology and Access to Knowledge.
- Assessments, Evaluation and Impact Studies.
- Institutional Matters including Mandate and Governance
- Other Issues

The General Assembly in its latest October session decided to renew the mandate of the Provisional Committee for a further period of one year. The matter is to be addressed in the conference from November 19 to December 7, 2007.

The moot question that needs to be addressed is whether the Development Agenda block the implementation of SPLT.

The on-going discussions and the relative outcome of it is very important, as it is already figured that WIPO would definitely be the home ground for future struggles in IP rights.

At this juncture, the attitude of India which usually represents the voice of the developing countries, is very crucial in determining the final trail. Presently, India has made a strong pitch to revive the dialogue on the mainstreaming of development into the entire agenda of the organization.

In the present scenario it seems that the Development Agenda is definitely road-blocking the development of SPLT. Consensus on norm settings standards, technology transfer, fair balance between IP protection and public interest, an unbiased IP enforcement mechanism keeping in mind that intellectual property protection without acknowledging public policy concerns undermines the very credibility of system, are what the developing countries are concerned about. ●

Geographical Indications Registered in India

- | | |
|---------------------------|----------------------------------|
| 1. Kullu Shawl | 15. Mysore Sandal Soap |
| 2. Kangara Tea | 16. Bidriware |
| 3. Kotpad Handloom Fabric | 17. Channapatna Toys and Dolls |
| 4. Kota Dorai | 18. Mysore Silks |
| 5. Darjeeling Tea | 19. Mysore Agarbathi |
| 6. Orissa Ikat | 20. Mysore Rose Wood Inlay |
| 7. Chanderi Saree | 21. Mysore Traditional Paintings |
| 8. Solapur Chadder | 22. Kasuti Embroidery |
| 9. Solapur Terry Towel | 23. Bhavani Jamakkalam |
| 10. Pochampally Ikat | 24. Kancheepuram Silks |
| 11. Coorg Oranges | 25. Salem Fabric |
| 12. Mysore Betal Leaf | 26. Madurai Sungudi |
| 13. Nanjanagud Banana | 27. Coimbatore Wet Grinder |
| 14. Mysore Sandalwood Oil | 28. Aranmulla Kannadi |

If you have any suggestions, comments or queries, please feel free to email at: mail@lexorbis.com

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