HASAN AND SINGH

Intellectuals @ Law

Patents, Trademarks, Designs, Copyright & Protection of Plant Varieties

Newsletter October 2014

1. Indian Patent office eases rule for pharma companies.

India's patent office has conceded a key demand of the pharmaceutical industry, dropping a proposed clause that would have enforced a more stringent examination of patent applications. A clause in the draft rules, mandating the use of generic names of pharmaceutical substances to check whether discovery claims made in a drug patent application were already known or not, has been dropped in the final rules.

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2. Cipla asks government to revoke five patents held by Novartis.

Cipla accused Novartis of "ever-greening", or seeking to extend its monopoly, by filing five patents for the "same or similar substance". It also urged the government to consider COPD as an epidemic worthy of being qualified as a "public health crisis" as it claims 50 lakh lives annually in India, which is more than the toll from HIV-AIDS, malaria, cancer and tuberculosis.

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3. Indian Govt sets up 6-member IPR think tank.

Taking into account India's dismal performance in protecting intellectual property rights over drug and agricultural products, the Centre has formed a six-member 'think tank' to draft national IPR policy and suggest legal means to handle undue pressure exerted by other countries on this issue. India had issued 1,001 drug patents between April 2010 and March 2013, of which 771 were given to foreign drug makers, mainly from the US and Europe, according to data released last year by the Indian Patent Office (IPO). To counter this, department of industrial policy and promotion on 22 October set up the 'think tank' under the chairmanship of Justice Prabha Sridevan.

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4. Pfizer wins patent for Voriconazole in India.

Pharmaceutical major Pfizer Inc has received a patent for its anti-fungal drug Voriconazole, which it is selling in US under the brand name Vfend, overcoming opposition from Ranbaxy Labs Ltd and Natco Pharma.The composition is industrially useful in the preparation of medicaments for the treatment of fatal fungal infection and the opposition arguments on non-patentability of the innovation and prior claiming of the invention are not sustainable, said the Deputy Controller of Patents and Designs.

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5. PILs challenge NPPA decision on price cap.

Two public interest litigations (PILs) filed on 9th October in the Supreme Court and Delhi high court challenged a 22 September decision by the National Pharmaceutical Pricing Authority (NPPA) to withdraw internal guideline to set prices of non-essential drugs following directions from the department of pharmaceuticals.

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6. Indian Govt mulls IPR courts to fast-track cases.

The government is working on a new, comprehensive policy on intellectual property rights (IPR), which would pave the way for setting up special IPR courts comprising experts to fast-track adjudication on infringement cases concerning all forms of IPRs. A separate legal regime for 'utility patents', which would be in compliance with the World Trade Organisation's Trade Related aspects of IPRs Agreement (TRIPS), has also been proposed.

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7. Real-time online app opens India's patent process to public eye.

The government is throwing open the entire process of patents—from the filing of an application to the final decision rejecting or granting it—by putting it online in order to curb corruption and address charges of opacity. The public will be able to access digital updates at each stage of file movement at the Indian patents and trademarks office—the Office of Controller General of Patents, Designs and Trademarks—with all specifications, including patent examination (verification of the invention claims) reports, official remarks, reviews and corrections and the final decision, on the patent office's website

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8. Controller General of Patents, Designs & Trade Marks on 29th October launches Guidelines for examination of patent applications in the field of Pharmaceuticals.

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9. USPTO Report on Virtual Marking.

USPTO to submit a report on virtual marking after enactment of the AIA. The AIA made many changes to United States patent law, including an amendment to 35 U.S.C. § 287(a), the so-called "marking" statute. The purpose of marking an article is to provide constructive notice to the public that the article is patented.

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10. Roche-Cipla patent row mediation fails.

Efforts to end the long and bitter patent tussle between domestic pharma company Cipla and multinational Roche over a lung cancer drug have come to a naught, with the Delhi high court-appointed mediator submitting its "failure" report in the case.The Roche-Cipla case was the first patent dispute in the country to have been referred for mediation by the court earlier this year, and the outcome was keenly awaited.

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11. DIPP defers decision on issuance of compulsory licence for cancer drug Dasatinib

The department of industrial policy and promotion, or DIPP, has delayed a decision on issuing a compulsory licence for cancer drug Dasatinib by seeking fresh clarification from the health ministry. The department of industrial policy and promotion, or DIPP, has delayed a decision on issuing a compulsory licence for cancer drug Dasatinib by seeking fresh clarification from the health ministry.

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12. Delhi University to Soon Have Policy on Registration of Patents.

Delhi University (DU) is in the process of drafting an Intellectual Property (IP) policy to facilitate registration of patents, copyrights and trademarks by its students and teachers.The policy is expected to deliberate upon ownership patterns of the patents or trademarks, IP rights of students, teachers and visiting professors, copyright policy, licensing policy, patent funds, division of payment structure, IPR issues in digital domain, patentability assessment, invention disclosures and plagiarism, among others.

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13. Indian drugmaker Ranbaxy still has exclusive rights for Nexium generic

Indian drugmaker Ranbaxy Laboratories still has exclusive rights to the launch of AstraZeneca's heartburn drug Nexium in the United States, it said on 28th October, despite regulatory concern over the manufacturing process.Ranbaxy was the first to seek approval from the U.S. Food and Drug Administration (FDA) to sell a cheaper copy of Nexium, gaining exclusive rights to sell it for six months after patent expiry.

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14. US launches review of India's patent regime.

The US on 14th October launched a review of India's Intellectual Property Regime, in which the focus is to measure the engagement that New Delhi has pursued in terms of intellectual property. It had noted that it would conduct an OCR of India focusing in particular on assessing progress made in establishing and building effective, meaningful, and constructive engagement with the Government of India on IPR issues of concern.

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15. Sun, Dr Reddy's, Cadila named in US Congress price probe.

The US Congress seems to have gone on the offensive against 14 generic drug manufacturers, including three top Indian firms — Sun Pharmaceutical Industries, Dr Reddy's Laboratories and Cadila Healthcare — following an abnormal rise in prices of 10 generic medicines. Industry officials maintain there is no provision under law by which the Congress could conduct such investigation. But the development is significant, especially against the backdrop of a continuing tussle between India and the US over issues related to intellectual property rights (IPR) and the American regulator increasing enforcements on Indian firms.

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