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1. Indian trade marks registry to widen its doors for recording “well known” marks

TO ADDRESS THE CONCERNS OF BRAND OWNERS, THE TRADE MARKS REGISTRY HAS PROPOSED AN AMENDMENT

The role of recordation of well-known marks varies across jurisdictions. Against that backdrop, the step about to be taken by the Trade Marks Registry in India in connection with recording well-known marks is especially noteworthy. Kat friend Ranjan Narula, of RNA Intellectual Property Attorneys, describes what can be expected to shortly take place.

"Indian trademark law recognises well-known marks and it has adopted the criteria set out in Article 6 of the TRIPS agreement to determine if a mark is well-known.

However, the Trade Marks Act, 1999, had no specific provision to seek a formal declaration from the Trade Marks Registry regarding the well-known status of a mark. Since 2003, the Indian Trade Marks Registry has produced a list of marks that the courts have considered to be well-known. [Read more](#)

2. EPO stays proceedings in certain biotechnology cases

PLANTS AND ANIMALS DERIVED FROM ESSENTIALLY BIOLOGICAL PROCESSES SHOULD NOT BE PATENTABLE

The European Patent Office has decided to stay all proceedings in examination and opposition cases in which the invention is a plant or animal obtained by an essentially biological process.

The decision was taken following the discussion by EPO member states in the Patent Law Committee of the Administrative Council on the recent Notice of the European Commission related to certain articles in the EU Biopatent Directive (98/44/EC). [Read more](#)

3. Brazil's fast-track programme for 'green' patents now permanent

EXPEDITED PATENT EXAMINATION FOR TECHNOLOGIES FOR ALTERNATIVE ENERGY

The Brazilian Patent and Trademark Office (INPI) has reportedly made its fast-track programme for 'green' patents permanent.

Law firm Di Blasi, Parente & Associados released a statement about the INPI's move yesterday, December 13.

The Brazil-based law firm said that the World Intellectual Property Organization (WIPO) and INPI had run a pilot. [Read more](#)

4. IP Australia releases exposure draft of the Intellectual Property laws Amendment bill 2017

INTENDED TO PREVENT IP OWNERS FROM OBTAINING MULTIPLE SHORT EXTENSIONS

IP Australia has released an Exposure Draft of the Intellectual Property Laws Amendment Bill 2017. The proposed changes aim to align and simplify the administrative processes and rules relating to patents, trade marks, designs and patent breeder's rights in order to reduce complexities and delays currently experienced by IP owners.

Responses to the proposed changes can be submitted to IP Australia by interested parties by 22 January 2017.

This article will specifically address some of the key proposed changes to the Patents Act 1990 and the Designs Act 2003, including changes to respond within the 6 month time frame. The current system of obtaining an extension of time is noted as having a potential to create complexities and confusion for IP owners such as determining which extension is relevant and the supporting documents required. [Read more](#)

5. Southeast Asian countries launch IP cooperation plan to be assisted by WIPO, EU

**WORLD INTELLECTUAL
PROPERTY ORGANIZA-
TION PROVIDING FINAN-
CIAL AND TECHNICAL
ASSISTANCE**

Countries in Southeast Asia have launched a 10-year action plan to strengthen their intellectual property rights cooperation, with the European Union and the World Intellectual Property Organization providing financial and technical assistance in helping the countries to achieve their goals. [Read more](#)

6. Acquired distinctive character in trade marks must be evidenced in every EU country, rules court

**NESTLÉ'S SHAPE MARK
HAD ACQUIRED DIS-
TINCTIVE CHARACTER
THROUGH ITS USE IN
THE EU**

Marks which are not inherently distinctive must be shown to have acquired distinctive character through use across every EU country to remain registered as an EU trade mark, according to a new ruling

The EU's General Court set out its view in a dispute involving confectionary giants Nestlé and Mondelez UK Holdings & Services, the owner of the Cadbury brand.

The Court was assessing whether the Board of Appeal at the EU Intellectual Property Office (EUIPO) had been right to rule that the shape of Nestlé's 'four-finger' Kit Kat chocolate bar was eligible for EU trade mark protection. Mondelez had appealed against the Board of Appeal's ruling. Central to the Board of Appeal's ruling had been its finding that Nestlé's shape mark had acquired distinctive character through its use in the EU. Marks which are devoid of distinctive character cannot be registered as trade marks under EU law. [Read more](#)

7. Increasing blockchain patents may soon hamper innovation

**THE WHOLE BLOCK-
CHAIN REVOLUTION
WAS MADE BY NUMER-
OUS STARTUPS**

Companies count their patents among prized possessions. Having a patent for something important can be worth a fortune, guaranteeing the company a constant stream of revenue until it expires. At the same time, it may also hamper innovation by preventing other from using the technology for free.

Bitcoin and its underlying blockchain are open source technologies and it has gained prominence in the banking and fintech industry lately. The potential of blockchain to change the future of banking has forced many institutions to invest heavily in the development and implementation of cryptocurrency technology based applications. [Read more](#)

8. USPTO proposes fee increases for FY 2017

**THE OFFICE PROPOSES
INCREASING 205
PATENT FEES.**

The USPTO has published its notice of proposed rulemaking for the FY 2017 patent fee schedule in the Federal Register. The USPTO proposes fee increases to recover its estimated costs for patent operations and achieve its strategic goals of optimizing patent quality and timeliness and increasing international efforts to improve IP policy, protection, and enforcement.

The Office proposes increasing 205 patent fees. The vast majority of proposed fee increases follow the incremental changes seen in the past. The most noteworthy and sizable fee increases are for the Patent Trial and Appeal Board (PTAB) proceedings established under the AIA ("AIA Trials"). These increases align the fees for AIA Trials with the calculated actual costs of the proceedings. [Read more](#)

9. Backdoor patents could hurt patients

Earlier this month the Indian Pharmaceutical Alliance was up in arms over a proposed rule change being considered by the Centre to provide a longer period of data exclusivity to “new” drugs, which it believes will severely impact the availability of low cost affordable generic medicines in India.

The move comes allegedly at the behest of the United States Trade Representative (USTR), which is the arm of the US government tasked with the role of enforcing US intellectual property in markets around the world. The proposal change will result in increasing the data exclusivity period from the current four years to 10 years . Data exclusivity protects data generated in the course of clinical trials of a drug. Before a drug can be marketed, the approval regulations require drugs to undergo detailed clinical testing to ensure it is safe and efficacious. The cost of undertaking tests is considerable, involves human subjects and is, therefore, an arduous exercise. Most governments award a drug company that has undertaken clinical trials with a period of “exclusivity” which ranges anywhere from five to eight years.

Historically, data exclusivity represents a compromise between the innovator drug companies and generic drug companies, where innovator companies get a period of exclusivity. But once that exclusive period is over, a generic company can use the data for its own drug approval. The compromise, first memorialised in the US under the Hatch-Waxman Act 1984, provides a period of exclusivity of five years to protect the original data of the clinical trials.

[Read more](#)

**INCREASING THE DATA
EXCLUSIVITY PERIOD
FROM THE CURRENT
FOUR YEARS TO 10
YEARS**