WTO Public Forum 2015

IP: a Trade Resource

Association Internationale pour la Protection de la Propriété Intellectuelle
International Association for the Protection of Intellectual Property

Manoj Menda
Co-Chair, AIPPI Standing Committee TRIPS
manoj@menda.net
BIG JUMP, BUT QUESTIONS LOOM

Economic growth set to quicken under a new formula: all eyes on how it influences budget moves and RBI’s policy

7.4% Estimated growth of India’s GDP in 2014-15, up from 6.9% in 2013-14 (4.7% according to the earlier series)

9.5% 2005-06
9.6% 2006-07
9.3% 2007-08
8.6% 2009-10
8.9% 2010-11

HOW THE OTHERS FARE
Real GDP growth in 2014
China 7.4%
USA 2.4%
Germany 1.5%
Russia 0.6%
Brazil 0.1%

6.7% 2008-09

6.7% 2011-12
6.9% 2013-14
5.1% 2012-13
7.4% 2014-15

REAL GDP GROWTH OVER THE YEARS

MANUFACTURING
6.8% Estimated growth in 2014-15, up from 5.3% in 2013-14 (-0.7% in earlier series)

Agriculture
1.1% Estimated growth in 2014-15, down from 3.7% in 2013-14 (4.7% in earlier series)

Services
8.9% Estimated growth in 2014-15, from 6.6% in 2013-14 (5.8% in earlier series)

*Old series estimates not available; # Inflation adjusted; **Services sector includes construction; GRAPHIC: SANJAY KAPOOR
TRADE & IP – INDIA

KEY LEGAL ISSUES FACING BUSINESSES:

• INTELLECTUAL PROPERTY
• PATENT LICENSING
• BRAND PROTECTION
• PRIVACY, SECURITY,
• ACCESSIBILITY,
• ENVIRONMENTAL SUSTAINABILITY
• DIGITAL INCLUSION.
TRADE & IP – INDIA

- INTELLECTUAL PROPERTY STATUTES:
  - TRADEMARKS ACT, 1999
  - PATENTS ACT, 1970
  - COPYRIGHT ACT, 1957
  - DESIGNS ACT, 2000
  - PROTECTION OF PLANT VARIETIES & FARMERS RIGHTS ACT, 2001
  - SEMI CONDUCTOR INTEGRATED CIRCUITS LAYOUT - DESIGN ACT, 2000
  - BIOLOGICAL DIVERSITY ACT, 2002
TRADE & IP – INDIA

• GEOGRAPHICAL INDICATIONS OF GOODS ACT, 1999
• COMPETITION ACT, 2002
• CUSTOMS ACT, 1962
• INFORMATION TECHNOLOGY ACT 2000
• INDIAN PENAL CODE 1860
• DRUGS AND COSMETICS ACT 1940
• FOOD SAFETY AND STANDARDS ACT 2006
TRADE & IP – INDIA

• 2007

• NOTIFICATION FOR INTELLECTUAL PROPERTY RIGHTS (IMPORTED GOODS) ENFORCEMENT RULES, 2007 SECTION 11 OF THE CUSTOMS ACT, 1962 TO DEAL WITH INFRINGEMENT AND COUNTERFEIT GOODS IMPORTED INTO INDIA.

• CONTRARY TO POPULAR PERCEPTION INDIA IS NOT A COUNTERFEITER. MEASURES TAKEN SHOW RESULTS.
TRADE & IP – INDIA

• SEIZURES IN EUROPE

Countries of origin of products detained in EU (2013)

- China 66.12%
- Hong Kong 13.31%
- Greece 5.83%
- Turkey 3.68%
- United Arab Emirates 2.49%
- Ghana 1.96%
- India 1.77%
- All other countries 5.30%

Source: Report on EU customs enforcement of intellectual property rights at EU border, 2013
TRADE & IP – INDIA

Fiscal Year 2011 IPR Seizure Statistics

FY 2011 TOTALS:
24,792 - NUMBER OF SEIZURES
$178,322,633 - DOMESTIC VALUE
$1,110,432,844 - MSRP

SOURCE COUNTRIES
CHINA 62%
HONG KONG 18%
INDIA 3%
ALL OTHERS 17%
Counterfeit seizure report 2013

The CSR report displays all the counterfeiting seizures reports in Indian newspapers. HOMAI compiled these reports from various newspapers in India and published on a quarterly basis. However, the current report is for the period January 2013 - December 2013. For more information, email at info@homai.org.

<table>
<thead>
<tr>
<th>D/M/Y</th>
<th>News Title</th>
<th>Sector</th>
<th>Region</th>
<th>Reported in Media</th>
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<td>01 Jan 2013</td>
<td>Fake cough syrup unit busted</td>
<td>Pharmaceutical</td>
<td>Ghaziabad, UP</td>
<td>Deccan Herald</td>
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<td>01 Jan 2013</td>
<td>60 bags of poppy husk seized</td>
<td>Animal Food</td>
<td>Patna, Bihar</td>
<td>Times of India</td>
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<td>19 Feb 2013</td>
<td>3 held for smuggling liquor</td>
<td>Liquor</td>
<td>New Delhi</td>
<td>Hindustan Times</td>
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<td>28 Feb 2013</td>
<td>Man arrested for using forged cheque</td>
<td>Fiduciary</td>
<td>Ghaziabad, UP</td>
<td>Pioneer</td>
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<td>28 Feb 2013</td>
<td>D1S seized GLS lamps with fake 151 marks</td>
<td>Electronics</td>
<td>New Delhi</td>
<td>Times of India</td>
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<td>05 Mar 2013</td>
<td>Chemist shop seized selling counterfeit medicines</td>
<td>Pharmaceutical</td>
<td>Kanpur, UP</td>
<td>Times of India</td>
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<td>06 Mar 2013</td>
<td>Fake certificate racket busted</td>
<td>Document</td>
<td>New Delhi</td>
<td>Times of India</td>
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<td>22 Mar 2013</td>
<td>Fake currency racket busted</td>
<td>Currency</td>
<td>New Delhi</td>
<td>Times of India</td>
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<td>22 Mar 2013</td>
<td>Fake Glue unit busted</td>
<td>FMCG</td>
<td>Ghaziabad, UP</td>
<td>Times of India</td>
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<td>23 Mar 2013</td>
<td>Graduate held for preparing fake DHA papers</td>
<td>Document</td>
<td>New Delhi</td>
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<td>04-Jul-2013</td>
<td>Bogus ration card racket busted</td>
<td>Document</td>
<td>Pune (Maharashtra)</td>
<td>Times of India</td>
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<td>05-Jul-2013</td>
<td>Fake Passport Racket busted in Kanpur</td>
<td>Identity Document</td>
<td>Kanpur, UP</td>
<td>Times of India</td>
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<td>26-Jul-2013</td>
<td>Fake driving licence racket busted at KTO</td>
<td>Identity Document</td>
<td>Surat, Gujarat</td>
<td>Times of India</td>
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<td>26-Jul-2013</td>
<td>Fake visa racket busted, 2 arrested</td>
<td>Identity Document</td>
<td>New Delhi</td>
<td>Times of India</td>
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<td>24-Jul-2013</td>
<td>Fake hall marking units flourishing in India: BIS</td>
<td>Identity Document</td>
<td>Chennai, Tamilnadu</td>
<td>Times of India</td>
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<td>23-Jul-2013</td>
<td>Fake certificate racket busted</td>
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<td>Kanpur, UP</td>
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<td>23-Jul-2013</td>
<td>6 from Amritsar held with fake FRP appointment letters</td>
<td>Identity Document</td>
<td>Amritsar, Punjab</td>
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<td>27-Jul-2013</td>
<td>Two held for fake documents racket</td>
<td>Identity Document</td>
<td>Hyderabad, A.P</td>
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<td>21-Jul-2013</td>
<td>Officials to be booked for 12L fake ration cards</td>
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<td>19-Aug-2013</td>
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<td>14-Sep-2013</td>
<td>Duplicate tobacco products seller held</td>
<td>Tobacco</td>
<td>Hyderabad, A.P</td>
<td>The New Indian Express</td>
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<td>02-Sep-2013</td>
<td>Three held with fake notes</td>
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<td>24-Sep-2013</td>
<td>Fake degree scam</td>
<td>Document</td>
<td>Bangalore, Karnataka</td>
<td>Times of India</td>
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<td>25-Sep-2013</td>
<td>Fake stamp papers valued at 107 crore seized</td>
<td>Financial Document</td>
<td>Patna, Bihar</td>
<td>Times of India</td>
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<td>26-Sep-2013</td>
<td>2 foreigners arrested for travelling to Sharjah on fake passports</td>
<td>Identity Document</td>
<td>Pune (Maharashtra)</td>
<td>The Indian Express</td>
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<td>25-Sep-2013</td>
<td>Illicit arms factory busted, pistols seized</td>
<td>Arms &amp; Ammunition</td>
<td>Munger, Bihar</td>
<td>India TV</td>
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<td>26-Sep-2013</td>
<td>160 cartons of illicit liquor seized, one held</td>
<td>Liquor</td>
<td>Ghaziabad, UP</td>
<td>India TV</td>
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<td>23-Dec-2013</td>
<td>Fake birth certificate in Nairwal's name surfaces in TN</td>
<td>Identity Document</td>
<td>Madurai, Tamilnadu</td>
<td>Hindustan Times</td>
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TRADE & IP – INDIA
TRADE & IP – INDIA

• THE 2015 ANNUAL REPORT OF THE MINISTRY OF COMMERCE AND INDUSTRY, DEPT. OF INDUSTRIAL POLICY AND PROMOTION HAS REVEALED THAT IN ORDER TO IMPROVE IP PROTECTION VARIOUS FOLLOWING MEASURES HAVE BEEN TAKEN:-

• ALL THE LEGISLATIONS RELATED TO IP ARE TRIPS COMPLIANT.

• FOUR STATE OF THE ART, MODERN AND INTEGRATED INTELLECTUAL PROPERTY OFFICE BUILDINGS

• ISA/IPEA BUILDING DELHI.

• HUMAN RESOURCES.

• DIGITIZATION OF IP RECORDS.
TRADE & IP – INDIA

• PATENT DATABASES FOR SEARCH:
• IT UPGRADEATION:
• E-FILING:
• COMPREHENSIVE PAYMENT GATEWAY (INCLUDING INTERNET BANKING, DEBIT AND CREDIT CARDS)
• FEE CONCESSION FOR MSME
• A COMPREHENSIVE AND DYNAMIC PATENT SEARCH PORTAL
• THINK TANK FOR IP
## Trade & IP – India

### Trends in IPR During 2007-08 to 2014-15 (up to December 2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>Filed</th>
<th>Examined</th>
<th>Granted</th>
<th>Disposal (Granted + Abandoned + Withdrawn + Refused)</th>
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<td>15795</td>
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<td>10296</td>
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<td>34287</td>
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<td>39400</td>
<td>11208</td>
<td>7509</td>
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<td>43197</td>
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<td>2013-14</td>
<td>42950</td>
<td>18306</td>
<td>4225</td>
<td>11672</td>
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<td><strong>2014-15</strong> (April - December)</td>
<td><strong>32269</strong></td>
<td><strong>15525</strong></td>
<td><strong>4817</strong></td>
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TRADE & IP – INDIA

PATENTS DISPOSAL

PATENTS
<table>
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<td>2009-10</td>
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<td>2011-12</td>
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<td>153991</td>
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(April- December)
## TRADE & IP – INDIA

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<th>Year</th>
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<td>6025</td>
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<td>2010-11</td>
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<td>9206</td>
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<td>2011-12</td>
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<td>2012-13</td>
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<td>2013-14</td>
<td>8533</td>
<td>7281</td>
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<tr>
<td>2014-15</td>
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<td>5373</td>
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<tr>
<td>(April-December.)</td>
<td></td>
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TRADE & IP – INDIA

• INDIA BELIEVES IN A STRONG PATENT REGIME TO STRENGTHEN ITS PROGRESS & PEOPLE.

• NO PROCEEDINGS HAVE BEEN INITIATED AGAINST INDIA INTERNATIONAL COURT ON IPR MATTERS.

• The WTO DISPUTE RESOLUTION PROCESS REQUESTED BY INDIA AFTER GOODS MEDICINES WERE SEIZED IN EUROPE HAS SUCCESSFULLY HELPED INDIA MAKE ITS STAND AND DIFFERENTIATE ON THE MANUFACTURE OF GENERIC DRUGS VIS A VIS COUNTERFEIT OR INFRINGING DRUGS
TRADE & IP – INDIA

• INDIA HAS FOCUSED ITS EFFORTS ON INNOVATION UNDER THE VARIOUS INITIATIVES SUCH AS “MAKE IN INDIA”, “CREATIVE INDIA; INNOVATIVE INDIA” “DIGITAL INDIA,” “SKILL INDIA,” “SMART CITIES.” AND NEW “IP POLICY”

• DEFENSE SECTOR PRIORITY FOR MAKE IN INDIA.

• USA-INDIA JOINT STATEMENT WAS RELEASED STATING "TO ESTABLISH AN ANNUAL HIGH-LEVEL INTELLECTUAL PROPERTY (IP) WORKING GROUP. US BUSINESS COMMUNITY HOPES THAT THE IPR POLICY CONTAINS COMMITMENTS TO THE LEGAL RIGHTS OF PATENT, COPYRIGHT, AND TRADEMARK HOLDERS".
TRADE & IP – INDIA

• NASSCOM IT TRADE ASSOCIATION SEPTEMBER 2015 REPORT:-

• INDIA'S SOFTWARE AND SERVICES PROVIDE ECONOMIC VALUE AND OPERATIONAL SUPPORT TO BUSINESS IN COUNTRIES SUCH IN EUROPE, AND UNITED STATES, JAPAN.

• COST-COMPETITIVE SOLUTIONS - IMPROVING GLOBAL TRADE AND MARKET SHARE OF BUSINESS.

• NEW PRODUCTS ARE IN THE GLOBAL MARKET WITH SHORTER PRODUCTION CYCLES.

• E.G. INDIAN TECH SUPPORTS US OPERATIONS -156,000 DIRECT JOBS & 255,000 INDIRECT JOBS.
MANDATE GIVEN TO IP THINK TANK IN OCTOBER 2014

MANDATE TO DRAFT NATIONAL INTELLECTUAL PROPERTY RIGHTS POLICY.

THINK TANK REPORT SUBMITTED IN JANUARY 2015.

DRAFT IP POLICY IS NOW UNDER INTER-MINISTERIAL CONSULTATION.

FINAL POLICY TO BE PLACED BEFORE THE CABINET FOR REVIEW AND APPROVAL

(ANNOUNCEMENT EXPECTED VERY SHORTLY)
IP POLICY UNDER CONSIDERATION

1. Proposed IP Promotion and Development Council (IPPDC) will open IP Promotion and Development Units (IPPDUs) in all States, smart cities, innovation and industrial clusters to provide **one window services**.

2. IP support to MSMEs will be expanded through new or existing **IP facilitation centers**.

3. Forging links between IPPDUs/Facilitation Centers with IPOs, innovation/research universities, industry associations & financing institutions for ‘**Mind to Market**’ concept.

4. **Technology Acquisition & Development Fund** under the Manufacturing Policy - utilized for licensing or procuring patented technologies.
5. Global protection systems for promoting & obtaining protection of Indian IPRs in several countries for creating wider marketing and trading opportunities.

6. **Manufacturing units to set up IP cells** in their own units and make IP an integral part of their corporate strategies.

7. Establishing a system in IPOs for **simultaneous examination and grant of several categories of rights** such as patents, trademarks, designs when attached to a single product.

8. **Integrate into Government initiatives** the various schemes of the Department of Electronics and Information Technology for IP promotion and global protection, linking industry and academic/ research.
IP POLICY AND SOME STEPS UNDER CONSIDERATION

9. MAKING IMPROVEMENTS TO THE EXISTING INFRASTRUCTURE IN THE IP OFFICES AND TRIBUNALS.

10. TO IDENTIFY ANOMALIES IN PRESENT IPR LEGISLATIONS AND ADVICE POSSIBLE SOLUTIONS.

11. CONSIDERING IMPLICATIONS OF JURISDICTIONAL DIFFICULTIES FACED BY THE ENFORCEMENT AUTHORITIES.

12. FACILITATE IP DISPUTE RESOLUTION.

13. CONSIDER PATENT BENCH IN HIGH COURTS.

14. CONSIDER UTILITY MODEL LEGISLATION.
TRADE & IP POLICY MEASURES

• PATENT PENDENCY RECOGNIZED AND MEASURES FOR IMPROVEMENT TAKEN

• MINISTER IN CHARGE HAS STATED THAT 2,26,339 PATENT Applications Are Pending As Of July 2015

• SHORT-TIME MEASURE, 263 ADDITIONAL POSTS OF CONTRACT EXAMINERS OF PATENTS SANCTIONED IN JULY 2015.

• APPROX. 32259 PATENTS APPLICATIONS –FILED UPTO DEC 2014.

• 2013-14 - 42950 PATENTS APPLICATIONS WERE FILED.

• 12th PLAN (2012-2017) APPROVED 666 POSTS OF EXAMINERS.

• 207 POSTS OF EXAMINERS FILLED UP. 19TH Sept 2015 For 459 POSTS WAS HELD BY THE PATENT OFFICE.

• THE PROCESS OF RECRUITING PATENT EXAMINERS IN INDIA IS NOW A CONTINUING PROCESS.
TRADE & IP POLICY MEASURES

Time to obtain registration in India

• 6 MONTHS TO REGISTER A DESIGN
• 4 To 6 MONTHS TO REGISTER A COPYRIGHT
• AT LEAST 10 MONTHS TO EXAMINE A TRADE MARK APPLICATION.
• 2 YEARS TO REGISTER A TRADE MARK
• PENDENCY - TRADE MARK REGISTRATION PROCESS REDUCED.
• ENTIRE TRADE MARK REGISTRATION PROCESS HAS NOW BEEN COMPUTERIZED.
NEW IP OFFICE UTILITIES.

• “STOCK AND FLOW”- IP OFFICE UTILITY WORKS FOR TRADE MARKS AS WELL AS PATENTS.

• HELPS APPLICANTS TO OBTAIN REAL-TIME INFORMATION ON PATENT AND TRADE MARK APPLICATIONS.

• INCREASED THE TRANSPARENCY IN THE IP OFFICE.
THE INDIAN START UP

• START-UP INDIA (LAUNCHED AUGUST 2015) - NEW INITIATIVE TO CREATE JOBS
• INDIAN STARTUPS HAVE RAISED $3.5B FUNDING IN THE FIRST HALF OF 2015 SOURCE : YOURSTORY.COM
• STARTUPS ARE REPRESENTATIVE OF THE CHANGING INDIA
• STARTUPS CLEARLY NEED TO PROTECT THEIR IP
• VCS AND ANGEL INVESTORS FUND START UPS
• VCS WANT TO SEE NOT ONLY AN OPPORTUNITY BUT AND IP IN PLACE WHEN THEY WRITE A CHEQUE.
• HENCE THERE IS EVEN MORE A CLEAR NEED FOR A GOOD IP POLICY AND SYSTEM IN PLACE.
THE INDIAN START – UP

• INVESTORS NEED ASSURANCES THAT THEIR INVESTMENTS WILL BE PROTECTED WHEN ENTERING A NEW MARKET.

• AN EFFICIENT IP ENFORCEMENT SYSTEM IS A REQUIREMENT.

• AS THE GOVERNMENT LOOKS TO IMPROVE THE EASE OF DOING BUSINESS IN INDIA, IT WILL NOT OVERLOOK THE IMPORTANCE AND NEED FOR IP PROTECTION.
THANK YOU