



The Intellectual Property Law Review – India

Chapter

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In the latest edition of The Intellectual Property Law Review by The Law Reviews, Pravin Anand (Managing Partner), Shrawan Chopra (Partner) and Vibhav Mithal (Managing Associate) evaluate the recent legal developments in the IP Jurisprudence in India. A majority of decisions and developments covered in this chapter were passed by virtual courts following hearings that took place via videoconferencing. The diverse issues that the decisions touch upon highlight that IP owner rights were protected holistically during the pandemic.

This issue includes progressive landmark decisions from Indian courts, for instance, India's first anti-anti suit injunction order (InterDigital Technology Corporation v Xiaomi).

The IPAB (now abolished) was also pro-active during the covid-19 pandemic and rendered some important decisions to protect the rights of IPR owners that have far-reaching ramifications. Illustratively, the Hon'ble Tribunal held that a generic disclosure cannot defeat the novelty of a subsequent patent. Furthermore, if an aspect was covered but not disclosed in a document, then that document cannot be used for an invalidity analysis. Such findings are relevant for an invalidity analysis and may also aid parties in court cases.

Clarifying the status of software patents further, the IPAB granted a patent for a computer-related invention holding that prohibition under Section 3(k) of the Patents Act 1970 did not apply. The decision of IPAB provides that 'technical effect' is critical to determine patent eligibility, and the analysis applied certain factors to hold how the patent application involved demonstrated technical effect. The decision is instrumental and would aid applications seeking to file patents for computer-related inventions in India.

The IP Jurisprudence in India is rapidly evolving to ensure that IP owners' rights are duly acknowledged and are being effectively enforced by courts as well as by tribunals. The rights of the IP owners have remained unaffected by the pandemic. These trends elucidated in this edition indicate that the outlook in India continues to be favourable for IP owners in the times to come.

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