

Intellectual Property advocacy in the fields of:

- IP Infrastructure
- IP Valuation
- M & A
- IP Policy
- Technology Transfer
- Innovation Research
- Patent Law
- Licensing
- Data Management
- Copyright
- Collaborations
- Balance for Rights & Obligations

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## On the Occasion of World IP Day National IPR Conference

### Expanding IP Ecosystem in Industry &

**National Intellectual Property Awards 2017**  
**27 April, 2017; 1000 - 1730 Hrs; Hotel The Lalit, New Delhi**

Dear Mr. Nair,

Confederation of Indian Industry (CII) in partnership with Department of Industrial Policy and Promotion (DIPP) and Intellectual Property Office (IPO) is celebrating the World IP Day by recognizing and rewarding organization/people who have contributed in harnessing the country's intellectual capital and creating an eco-system that boosts creativity and innovation.

CII has planned to organize a one day **National IPR Conference** with an underlying theme "**Expanding IP Ecosystem in Industry**", on 27 April 2017 in ,Hotel The Lalit, New Delhi, on the occasion of World IP Day. The conference will be followed by distribution of **National IP Awards** by a very senior dignitary of the Government of India.

The conference is structured to encourage maximum interaction among the 150-200 expected participants from national & international, including: high-level government officials, business leaders, senior law enforcement officials, judges and lawyers, inter- governmental and non-governmental organizations, associations dealing with this issue, consumer groups and academics.

For more details you can contact my colleague Ms.Nabanita Mukherjee at nabanita.mukherjee@cii.in (09910209252) or Ms. Yatika Kashyap (ipinitiative@cii.in; 08376815137) or Mr.Shourabh Gupta @ technology@cii.in; 8826806794.

I am writing to cordially invite you and request you to nominate colleagues to participate in the conference **National Conference on IPR and National IP Awards 2017**. This conference will offer an excellent networking opportunity to your firm besides other key benefits.

Reply form & Draft programme are attached for your reference.

*(Note: Discounts option : 3 or more than 3 delegate register at a time-10% discount)*

Please ignore this email, if you have already confirmed.

With warm regards

Yours sincerely,

Anjan

**Anjan Das**

Executive Director

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## DRAFT PROGRAMME STRUCTURE

1000-1600 Hrs	<b>National IPR Conference</b>
1000-1030 Hrs	Opening Session
1030-1045 Hrs	Tea /Coffee
1045 – 1130 Hrs	<b>Session1: Presentations of Case studies by Top most IP owners (Industry)</b>
1130– 1230 Hrs	<b>Session 2: Panel discussion on Trademarks as IP tools for Business developments</b>
1230 – 1330Hrs	<b>Session 3:Presentations on recent landmark cases or prosecution experiences by Indian and International Lawfirms</b>
1330-1430 Hrs	Networking Lunch
1430 – 1600 Hrs	<b>Session 4: Session on National &amp; International Challenges in protection and management of Intellectual Property Rights</b>
1600-1630 Hrs	Tea /coffee
1630-1730 Hrs	<b>National Intellectual Property Awards 2017</b>

### Registration details:

CATEGORY	PARTICIPATION FEE/ DELEGATE
CII Members / Non-members ( <i>Industry</i> )	5000 INR
Law Firms / IP Practitioners	5,000 INR
Institutes / Academicians	3,000 INR
Students	1000 INR
Overseas Delegate ( <i>The payment has to be made in CASH in Indian Rupees by the delegate. The USD amount can be converted to INR</i> )	USD 150

Registration fee is non- refundable and non-adjustable with other CII events. However change in the nomination is possible.

- Delegate fee is not inclusive of all applicable taxes. Taxes will be extra
- Discounts option : 3 or more than 3 delegate at a time—10% discount
- Payment with Credit card also possible through the online registration in the CII website.

**Fax/mail to :**

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## CHINA TRADEMARK OFFICE HAS REDUCED THE OFFICIAL FEE BY 50%

The new rates for trademark matter in Mainland of China, came into force on April 1st, 2017 as follows :

Services	Official Fee(USD)
Trademark Application (1 class within 10 items)	50
Renewal (1 class)	170
Changes/Name/address (1 class)	42
Assignment (1 class)	85
Trademark searching(1 class)word	---
Trademark searching(1 class)logo	---

## INDIA'S GIPC RANKING IS IT FAIR ?

GIPC (Global Intellectual Property Center, US Chamber of Commerce), in its Report of 2017 has ranked India 43<sup>rd</sup> out of 45 (almost close to bottom countries.) While the Report has taken note of effective Trade Mark protection and also on the Industrial Design protection, the Report has given negative marks in the area of Patents, Copyrights, Trade Secrets Enforcement and non-ratification of Treaties. The Controller General of Patents, Designs, Trademarks & GIs, in an interview to Business Today, clarified India's stand on key areas such as progress made by India in revamping the IP office, IT enabling & transparency, recruitment of additional technical staff to expedite grant and reduce pendency and other steps taken to address the IP concerns. The response by the CG is available on the URL as follows :

<http://www.businesstoday.in/magazine/features/we-can-clear-the-patent-backlog-within-next-two-years/story/249173.html>

The concerns expressed by GIPC may be addressed and responded by the Government of India or Chambers of Commerce. However, a layman's response could be useful to allay the fears of GIPC, as follows. The responses are numbered as per the rating points and their numbers in the GIPC study.

1. **Patents** : Term of Protection being as per global standards of 20 years uniformly from date of application, there is no concerns, whatsoever.
2. However, there is strong criticism of the Patentability Criteria. This emerges from opposition to Sec.3 and more particularly to Sec.3(d). The Gleevec example quoted against India is an unfair case, especially since Gleevec was already in public domain prior to India's adoption of Product Patent Regime in 1995/2005. The 1993 Gleevec Patent disclosure states as follows :

- a. **"any reference to the free compounds should be understood as including the corresponding salts, where appropriate and expedient"**
- b. **"acid addition salts can be convened into the free**

**compounds in a customary manner"**

- c. **Salt-forming groups such as methanesulfonic salts (mesylate) and benzene sulfonic salts (besylate)**

Further, the Expert Affidavit in favour of 30% bioavailability of Gleevec states as follows :

***the difference in bioavailability of free base with that of crystal form of imatinib mesylate is only 30% and also the difference in bioavailability may be due to the difference in their solubility in water.***<sup>1</sup>

This means that the B-crystalline form was wrongly compared with the insoluble base and not the  $\alpha$  (alpha) crystalline form. After multi-level challenges in various forums from 2006 to 2012, the Supreme Court of India, upheld the rejection of the Gleevec ( $\beta$ -crystalline form of Imatinib Mesylate) patent stating as follows :

***"We have held that the subject product, the beta crystalline form of Imatinib Mesylate, does not qualify the test of Section 3(d) of the Act but that is not to say that Section 3(d) bars patent protection for all incremental inventions of chemical and pharmaceutical substances."***

The Gleevec Judgements from the Division Bench of the Chennai High Court as well as the Supreme Court were landed globally as matching or even surpassing world standards of jurisprudence. Grants of Patents in India have been fair and through well-reasoned orders. The patentability criteria in USA has, in the meantime, been undergoing judiciously-made reforms though the US Supreme Court judgements as well as well-reasoned orders from the PTAB (Patent Trial and Appeal Board) decisions. The links to these orders and Judgements are available in the Article "A changing Patent Landscape" by Gene Quinn in IP Watchdog (<http://www.ipwatchdog.com/2017/04/02/changing-patent-landscape-u-s-no-longer-most-patent->

<sup>1</sup> not verbatim reproduction

[friendly/id=81629/](http://www.ipwatchdog.com/2017/04/02/changing-patent-landscape-u-s-no-longer-most-patent-friendly/id=81629/)

3. Concerns of Patentability of CII (Computer Implemented Innovations) have largely been addressed by India, even though global attempts to standardize CIIs have not succeeded yet. The US standards are getting closer to Indian standards, partially because of Judgements from US Appeal Courts and partly from India's review of the guidelines for patenting of CIIs and the new "startup policy".
4. Pharmaceutical related enforcement in India has been given "0" (zero) marks in the rating by GIPC. Except for stray cases such as Gleevec (which was wrongly and undeservedly given undue publicity), India is far ahead of most countries in enforcement. The number of *ex parte* injunctions granted even against "Quia-timet suits" (mere apprehension of infringement) has probably broken all world records. Indian Courts have been liberally granting injunctions and reversing the rejections of Patents by the Indian Patent Office. Patent for Sunitinib (Sutent) repeatedly rejected by the Patent Office has been sent back to Patent Office, repeatedly by both the High Courts as well as Supreme Court. Latest example is that of Sofosbuvir, the patent of which was granted after first time rejection and court-intervention.
5. Only one CL (Compulsory Licence) was granted by India in last more than 20 years, while globally most countries grant equivalents of CLs for government use of patented technologies. Two other CL Applications have been rejected by India.
6. to 8. Patent term restoration (time lost in regulatory approvals), data exclusivity and pre-grant oppositions in pharmaceuticals are likely to remain as residual points of difference. While USA has been an active patent player for last 50 or more years, India is new in the product patent regime. India will need to be allowed time to evolve this area in view of India's domestic compulsions. India has only been receiving very few requests for regulatory approvals for patented

inventions, India does not follow the Canadian type "PROMISE DOCTRINE" for grant of patents in India.

9. The ranking for Copyrights have been rather low by GIPC, even though India is very alert in registration and enforcement of Copyright. India has been hugely under-valuated by GIPC, purely based on the Delhi University photocopy case, where students were allowed to photocopy copyrighted material for learning/education. India with its prolific movie, industry and audio-video recording protection ought to be rated even beyond most WTO member countries. India is on the forefront for prevention of piracy in copyrights, except for genuine student-learning purposes. Most recent cases of Ilayaraja dispute with singers is also being resolved by the appointment of the widely-respected artist Mr. Javed Akhtar, who has fought many a copyright battles, as the Chairman of IPRS-Indian Performing Rights Society Ltd.
10. India is on the forefront of fight against online piracy.
11. There is strong co-operation in India against online piracy.
12. India permits only just and reasonable limitations and exceptions. It is indeed unfair to give "0" (zero) marks for allowing students to photocopy for

their own 'Fair' use (The DU Case).

- 13/14. There is active debate for resolution in India for Digital Rights Management. There is no active move from government for use of licensed software without compensation.

**Trade Marks**

- 15 to 21. On the Trade Marks and Design fronts, India is receiving good marks (and appreciation) in the rating system. While India has recently introduced new rules to recognize "well-known marks", India has been granting recognition to well-known marks even in the past. Recently India's Flagship Pharma Company, CIPLA lost its "well-known mark" to a new company "CIPLA Engineering", leading to a TM dilution of the well-known CIPLA brand. The latest moves by the Health Ministry in India to opt for the INN, the pharmacopeial name in labels, in preference to Brand names for medications is likely to adversely affect marketing and brand building in pharma in years to come.
- 22 to 24 – Even though India is yet to formulate a Trade Secret law, India has been successfully protecting trade secrets and know-hows under common law provisions. There is far less barriers in India compared to many of India's trading partners in the area of market access and commercialization

related regulatory aspects.

- 25 to 31 – India's enforcement of IP has been of global standards post WTO/TRIPs. India is extremely alert against "counterfeiting" (genuine not imaginary), software piracy, civil and procedural remedies as well as effective cross-border measures have been put in place and are operational. While India has adopted transparency and public reporting in most areas, Customs will also follow suit once GST is in place.
- 32 to 35 – While India has been giving strong priorities for FTAs and many FTAs and bilateral Treaties have been signed by India in recent years, India has the right to determine and act on what is good in the interest of the people in India. India may not have joined TPP or PLT, but India is actively engaged in RCEP (Regional Comprehensive Economic Partnership) negotiations. It is only fair that India, as any other country has to give weightage to domestic compulsions and protect the needs of the large Indian population.

Design (Patent) Registered for Jilebi ?  
**A Jilebi design has been registered – see link**  
<http://www.whatafuture.com/indian-design-patent-jalebi/>

<b>TRENDS IN IPR – AT A GLANCE</b>						<b>Trends in Design Applications</b>					
(www.ipindia.nic.in)											
Application	2011-12	2012-13	2013-14	2014-15	2015-16	Year	2011-12	2012-13	2013-14	2014-15	2015-16
Patent	43,197	43,674	42,951	42,763	46,904	Filed	8,373	8,337	8,533	9,327	11,108
Design	8,373	8,337	8,533	9,327	11,108	Examined	6,511	6,776	7,281	7,459	9,426
Trade mark	1,83,588	1,94,216	2,00,005	2,10,501	2,83,060	Registered	6,590	7,252	7,178	7,147	7,904
Geographical Indication	148	24	75	47	14	Disposal of Applications	6,705	7,300	7,226	7,218	8,023
<b>Total</b>	<b>2,35,306</b>	<b>2,46,251</b>	<b>2,51,564</b>	<b>2,62,638</b>	<b>3,41,086</b>	<b>Trends in Trade Marks Applications</b>					
<b>Trends in Patent Applications</b>						Year	2011-12	2012-13	2013-14	2014-15	2015-16
Filed	43,197	43,674	42,951	42,763	46,904	Filed	1,83,588	1,94,216	2,00,005	2,10,501	2,83,060
Examined	11,081	12,268	18,615	22,681	16,831	Examined	1,16,263	2,02,385	2,03,086	1,68,026	2,67,861
Granted	4,381	4,126	4,227	5,978	6,326	Registered	51,735	44,361	67,796	41,583	65,045
Disposal (granted + refused + withdrawn + abandoned)	8,488	9,027	11,411	14,316	21,987	Disposal	57,867	69,736	1,04,756	83,652	1,16,167