

Intellectual Property advocacy in the fields of:

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

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Editorial...

Intellectual Property related reading, exploring, accessing the huge knowledge base and keeping pace with the information and data generation is indeed a challenge, as on date, for any passionate IP professional.

PCT Gazette published by WIPO is widely read and referred globally. Websites of WTO (www.wto.org), TRIPS (www.wto.org/english/tratop_e/trips_e/trips_e.htm), WIPO (www.wipo.int), USPTO (www.uspto.gov), EU (<https://worldwide.espacenet.com>), Japan and other nations, especially India (<http://ipindia.gov.in/index.htm>) help you remain up to date on patent information. PCT newsletter is a useful journal to one and all. Passion for IP/ Patents, drives professionals to pursue and keep track. One among them is Dr. Anthony Melvin Crasto (World Drug Tracker, Principal scientist, Process research, Glenmark Pharmaceuticals Ltd). Probably the most prominent Indian IP explorer is Dr. (Prof) Shamnad Basheer, founder of Spicy IP (<https://spicyip.com>). Whenever, any sensational IP event occurs or any judgement is delivered, Spicy IP comes out with incisive and well researched analysis and comments.

(More about them later).

On the International front, sites such as www.ip-watch.org by Intellectual Property Watch which extensively covers International IP Policy News is one of the most outstanding. While ipwatch.org is followed worldwide, www.ipwatchdog.com covers USPTO and USA related IP news and events. IPOS GOODE (www.iposgoode.ca) provides list of online journals on Intellectual Property and Technology laws. IPOS GOODE also provides access to some of the journals online.

Intellectual property magazine (www.intellectualpropertymagazine.com) is one of the most popular source for IP practitioners, professionals and academics. **World IP Review** (WIPR) (www.worldipreview.com) is another journal of popular interest on IP. **Managing IP** (www.managingip.com) has gained popularity in IP law related reports. **Asia IP magazine** (www.asiaiplaw.com) by the Apex Asia Media Group analytically features the IP scenario.

Patently-O, **IPKat**, **IPRMENTLAW** are few of the other popular IP sites globally, while others, such as Patent Baristas, seem to be dormant.

Legal Era (www.legaleraonline.com) of Legal Media group has a monthly issue as well as an e-magazine which covers International IP events and news extensively.

INDIAN IP NEWS/INFORMATION SOURCES

SpicyIP

<https://spicyip.com/>

SPICYIP is my all time favourite Indian repositories on Intellectual Property (IP) and innovation law/policy. SPICYIP was founded by Prof. Shamnad Basheer, an IP academic and consultant. The SpicyIP team is vibrant and their analysis of the IP news and judgements is brilliant. SpicyIP lists following IP journals on its website,

- 1) Indian Journal of Intellectual Property Law (IJIPL)
- 2) Indian Journal of Law and Technology (IJLT)
- 3) Indian Journal of Traditional Knowledge (IJTK)
- 4) Journal of Intellectual Property Rights (JIPR)

ACADEMIC JOURNALS

- **O.P. Jindal Global University** (<http://www.jgu.edu.in/>) lists many IP law resources on its above link.
- **Lakshmikumaran& Sridharan attorneys** (www.lakshmisri.com) provides news and articles on IPR occasionally.
- The website of **Gopakumar Nair Associates** (www.gnaipr.com) and Patent Gurukul (www.patentgurukul.com) provides IP/ Patent news, articles, case-laws as well as upto date information on granted patents and pending patent applications. Case-laws including pre-grant oppositions, and post-grant oppositions filed by GNAs or associate are also made available on these sites.
- The website of **Indian Intellectual Property Office** (www.ipindia.nic.in) is the most informative site in India. The site is user-friendly and comprehensive including "InPASS" for public patent search, Journals, Annual Reports, IP expressions, Acts & Rules, Manuals and Guidelines. All IP related websites are also available from "ipindia" website. Patent Journals are published online every week on Fridays, which provides all details of patent applications, granted patents and other related publications. The Patent Search is highly efficient and provides complete patent prosecution history (File wrapper). The website and the online services as well as efficiency is constantly and steadily improving. The Indian Patent office website will soon be as informative and efficient or even better than International sites such as USPTO, Japio or Espacenet.

US SUPREME COURT UPHOLDS POWER OF THE PATENT OFFICE TO REVIEW AND CANCEL ISSUED PATENTS

In *Oil States Energy Services, LLC vs. Greene's Energy Group, LLC*, the Supreme Court of the United States upheld the power of the Patent Office to review and cancel issued patents. This power to take a "second look" is important because compared to courts, administrative avenues provide much faster and more efficient means for challenging bad patents. If the court had ruled the other way, the ruling would have struck down various patent office procedures and might even have resurrected many bad patents.

Oil States challenged the inter partes review (IPR) procedure before the Patent Trial and Appeal Board (PTAB). Oil States argued that the IPR procedure is unconstitutional because it allows an administrative agency to decide a patent's validity, rather than a federal judge and jury.

Together with Public Knowledge, Engine Advocacy, and the R Street Institute, the Electronic Frontier Foundation (EFF) filed an amicus brief in the Oil States case in support of IPRs. EFF's brief discussed the history of patents being used as a public policy tool, and how Congress has long controlled how and when patents can be canceled. EFF explained how the Constitution sets limits on granting patents, and how IPR is a legitimate exercise of Congress's power to enforce those limits.

EFF's amicus brief also explained why IPRs were created in the first place. The Patent Office often does a cursory job reviewing patent applications, with examiners spending an average of about 18 hours per application before granting 20-year monopolies. IPRs allow the Patent Office to make sure it didn't make a mistake in issuing a patent. The process also allows public interest groups to challenge patents that harm the public, like EFF's successful challenge to Personal Audio's podcasting patent. (Personal Audio has filed a petition for certiorari asking the Supreme Court to reverse, raising some of the same grounds argued by Oil States. That petition will likely be decided in May.)

The Supreme Court upheld the IPR process a 7-2 decision. Writing for the majority, Justice Thomas explained:

Inter partes review falls squarely within the public rights doctrine. This Court has recognized, and the parties do not dispute, that the decision to grant a patent is a matter involving public rights—specifically, the grant of a public franchise. Inter partes review is simply a reconsideration of that grant, and Congress has permissibly reserved the PTO's authority to conduct that reconsideration. Thus, the PTO can do so without violating Article III.

Justice Thomas noted that IPRs essentially serve the same interest as initial examination: ensuring that patents stay within their proper bounds.

Justice Gorsuch, joined by Chief Justice Roberts, dissented. He argued that only Article III courts should have the authority to cancel patents. If that view had prevailed, it likely would have struck down IPRs, as well as other proceedings before the Patent Office, such as covered business method review and post-grant review. It would also have left the courts with difficult questions regarding the status of patents already found invalid in IPRs.

In a separate decision, in *SAS Institute v. Iancu*, the Supreme Court ruled that if the PTAB institutes an IPR, it must decide the validity of all challenged claims. EFF did not file a brief in that case. While the petitioner had tenable arguments under the statute (indeed, it won), the result seems to make the PTAB's job harder and creates a variety of problems (what is supposed to happen with partially-instituted IPRs currently in progress?). Since it is a statutory decision, Congress could amend the law. But don't hold your breath for a quick fix.

Now that IPRs have been upheld, we may see a renewed push from Senator Coons and others to gut the PTAB's review power. That would be a huge step backwards. As Justice Thomas explained, IPRs protect the public's "paramount interest in seeing that patent monopolies are kept within their legitimate scope." EFF will defend the PTAB's role serving the public interest.

Credit: The Electronic Frontier Foundation / Legal Era

IP/PATENT RESOURCES IN FACEBOOK

- IPRMENTLAW – AnushreeRauta
- PATENT PALS – Raghavender G R
- Livelaw – M.A.Rashid
- Intellectual Property Law (IPLaw)
- CIPROM (Centre for Intellectual Properties)



INDIAN INTELLECTUAL PROPERTY CONVENTION

National Intellectual Property Awards were presented to the top IP Innovators and achievers on 26th April 2018, the World Intellectual Property (IP) Day at Hotel Le Meridien, New Delhi. Mr.Suresh Prabhu, Minister of Commerce and Industry gave away the Awards. Prior to the Award function, eminent Judges of the Delhi High court J. Prathiba Singh, J.Manmohan and J.Manmohan Singh (Retd.) current Chairman of IPAB addressed the gathering and enlightened the audience. Starting from below clockwise,

- Dr. (Prof) Ramakrishna, Dr. Dhumeand Dr. Nair
- Dr. Raj Dave, Dr. Padmavati (IIT Kharagpur), Dr. Arul George Scaria, Dr.(Prof) Ramakrishna and Hon'ble Justice Prathiba Singh delivering their lectures

