

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

For Private Circulation Only

Editorial

India has reason to be proud for having become the no.1 globally in population especially of youth (25%) +. This distinction comes with added National responsibilities such as employment, GDP control on inflation, widen educational and higher educational opportunities and others. India has been moving up the ladder in global economic power index too. Adding another feather as India's crowning glory in recent times, the World Bank's Logistic Resonance Index (LPI) 2023 has awarded additional six points to India, now ranking 38th among 139 countries. This excellent performance has come in the wake of significant investments infrastructure as well as technology.

2023 is significantly enhancing India's International economic exchanges in foreign trade initiatives. India has stepped up FTA (Free Trade Agreement) talks with leading economies of the World, such as UK, Canada, GCC (Gulf cooperation council) and others. India had already concluded and ratified FTA with Japan, and Korea earlier. Recently, in 2022, India has concluded FTA with Australia, USA has also evinced interest to negotiate trade agreement with India. IPR (Intellectual Property Rights) provisions are key contentions negotiating point in new FTA's. For example, UK has put forth a demand for six point review on IPR as follows:-

1. Introduction of Regulatory Data Protection system for New Drugs
2. Amendment in S.3 (d) of the Patents Act to allow Second Medical use Patents
3. Extension of the Patent Term for the Pharmaceutical and Agrochemical sector
4. Reform of India's Pre-Grant Opposition system
5. Reforms in the annual disclosure of working of patents (Form 27)
6. Disclosure requirements regarding foreign applications under Section 8 an sis-proportionate consequences of non-compliance.

India does not have to concede on IPR generally and on India's provisions of Patent Act,

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1970 in particular. Japan and Australia have signed FTA's intent seeking changes in India's IPR or Patent Law. India's Patent Law provisions as amended post WTO/TRIPS's have withstood challenges or tests of time and text over last nearly 20 years. FTA's shared not be used by developed countries as a tool for making India TRIPS's Plus. In the current context of India's performance in technology and manufacturing sector, India can negotiate from a position of strength and bargaining power. India should not compromise on IPR policy or more specifically on provisions of Patents Act, 1970 as it stand.

India will need the balance between Inventor (innovator) Patentee and the Patient/community's healthcare needs. In preserving current provisions which have stood the test of time and have greater proven to be patient friendly through the affordable access of generic medicine alternatives.

IPCA Laboratories Ltd. Press Release dated 24/04/2023

Ipcalaboratories Ltd. has approved entering into a definitive Share Purchase Agreement (SPA) for acquisition of 2,35,01,440 fully paid up equity shares of Rs. 2/- each, constituting 33.38 % of the paid up equity share capital of M/s. Unichem Laboratories Ltd., from one of its promoter shareholder at a price @Rs. 440/- per equity share aggregating to Rs. 1034.06 Crores.

The company is also making an open offer to the public equity share holders of Unichem to acquire from them upto 26% of the fully diluted outstanding equity share capital at a price @ Rs. 440/-per share, under the relevant provisions of SEBI (Substantial Acquisition of shares and takeovers) Regulations, 2011.

“These transactions are subject to the approval of the Competition Commission of India under the Competition Act, 2002 and such other approvals as may be required.

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The business and the product range of Ipca and that of Unichem compliments each other's business activities and product range" said the spokesperson of Ipca Laboratories Ltd.

Source: <https://economictimes.indiatimes.com/markets/stocks/news/ipca-to-acquire-33-8-stake-in-unichem-labs-for-rs-1034-crore/articleshow/99732273.cms>

India's second Intellectual Property Division inaugurated at the Madras High Court

The Draft IPR Division Rules were framed and ratified by the Court on July 7, 2022. On October 26, 2022 the Registry had also notified the State Government of Tamil Nadu to issue a notification of the Rules in the official Gazette. The State Government has issued the notification in the official Gazette after significant delay. The IPD of the Madras High Court may be presided over by a Single Judge or a Division Bench. The IPD will begin processing and hearing all IPR matters, including Civil suits, Original Revocation or Cancellation petitions, Arbitration proceedings, Appeals, Writs, and all pending proceedings filed before the erstwhile Intellectual Property Appellate Board (IPAB). The cases transferred to the Madras High Court from the IPAB will be listed before the IPD without levying any supplementary court fees. More than 2000 cases are transferred from the IPAB to the Madras High Court after the abolition of the IPAB. However, it is expected that the IPD, being acutely aware of the time sensitive nature of most IPR matters, is expected to dispose cases at a fast pace. The formation of the Madras High Court IPD and framing of the IPR Division Rules will facilitate speedy and effective adjudications, especially for Appellants who have been awaiting listing of their cases that were filed before the erstwhile IPAB.

Source: <https://www.mondaq.com/india/patent/1297546/ip-division-in-madras--directions-issued-by-madras-high-court->

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Bengaluru's famous food joint 'Vidyarthi Bhavan' wins trademark battle against Shivamogga hotel

A prominent restaurant in Bengaluru, Vidyarthi Bhavan, has won a Trademark infringement case against another restaurant in Shivamogga for using a deceptively similar name that caused confusion among consumers. The Bengaluru based restaurant accused Shivamogga of infringing upon their trademark using a similar sub-title and line "Bangalore Food Trends in Shivamogga". The Court has found that the defendants had used the trade name "Vidyarthi Bhavan" and subsequently changed it to a name that closely resembled the original by altering some spellings, adding a prefix of VB, and continuing to use the name "Vidhathri Bhavan". The Court held that "VIDHATHRI" and "VIDYARTHI" appear to be almost identical, and an ordinary person may not be able to ordinarily distinguish between both the names, as they are deceptively similar. Thus, the Court granted a permanent injunction against Shivamogga restaurant and directed it to destroy all the infringing materials, without levying any damages, as such.

Source: <https://www.hindustantimes.com/cities/bengaluru-news/bengalurus-iconic-vidyarthi-bhavan-wins-trademark-battle-report-101681126279925.html>

Mankind Pharma IPO : Grey Market Premium jumps as all eyes set on the allotment date

Mankind Pharma closed its three days IPO subscription on 27th April 2023. The investors are eagerly waiting for Mankind Pharma IPO's allotment date, which is most certainly on 3rd May 2023. As per the IPO subscription status of Mankind Pharma, the public issue received a rave response from the QIB segment investors but it failed to get fully subscribed in the retail segment. However, grey market is undeterred by these developments as a secondary market has been in bull trend for last six sessions. The focus has now shifted on Mankind Pharma IPO allotment date, which is expected on 3rd May 2023.

Source: <https://www.livemint.com/market/ipo/mankind-pharma-ipo-gmp-grey-market-premium-jumps-aheadofshare-allotment-date-11682925843529.html>