A SHORT REPORT ON THE PRESENT STATUS OF TEACHING AND RESEARCH IN INTELLECTUAL PROPERTY LAW IN INDIA

by
Narmada Khodie (Mrs.)
Professor and Head, Department of Law
University of Bombay
Bombay, India
and
K. Ponnuswami
Dean, Faculty of Law
University of Delhi
New Delhi, India

LEGAL EDUCATION AND THE TEACHING OF INTELLECTUAL PROPERTY LAW

India is a welfare State. The securing of justice, social, economic and political to the citizens is the primary aim of the Democratic Republic of India. Under the Constitution of India all the institutions of the national life are to be informed, inspired and animated by this concept of justice.[1] Since legal education aims to inculcate democratic values of life, there is a great demand for legal education and it will not be an exaggeration to say that there is an explosion of legal education in India in the past two decades. According to the Directory of Law Colleges in India, in 1970 there were 54 universities imparting legal education. This figure has already crossed 105 universities.[2] There are about 50 university departments and 170 affiliated colleges of which 100 are private colleges which are imparting legal education.[3] The Bar Council of India is the authority to lay down the standards of legal education under the Advocates Act 1961. Thus the standards of legal education as prescribed by the Council are to be complied with by the universities conducting professional degree courses. It was not until 1967 that the subject of intellectual property was accorded a place in the curriculum of LL.B by the Bar Council of India. The paper on Trade Marks Copyright and Patent is one of the optional segments of the LL.B course structure laid down for the final year of the Law. It follows therefore that the subject of intellectual property is not a compulsory paper, and being one of the several elective papers, it is left to the choice of the universities concerned whether to offer this elective course or not. According to the information available from the Universities Handbook 1985-86, it appears that the teaching of intellectual property law is conducted in 21 universities imparting courses in Law.[4] Most of these universities are affiliating universities and they have a number of affiliated colleges. For instance, Bombay University has 11 affiliated colleges and in all these colleges, theoretically speaking, a student can offer an elective paper on intellectual property. Barring the case of one Government Law College, the rest of the ten law colleges are non-aided colleges and are run by private management. Efforts are afoot to procure grants from the State so as to improve the financial position of such law colleges, and it is hoped that in the near future these law colleges will start receiving government aid and will be in a position to undertake faculty improvement programs. A similar position of legal education obtains with regard to many universities having affiliated colleges with little or no aid from the State/Centre Government. However, at the postgraduate studies in law the universities are free to prescribe specialized courses in the intellectual property law.

The University Grants Commission prescribes the standard for postgraduate teaching and research in Law and not the Bar Council of India. It is not a very happy finding that only few universities have chosen to offer courses in intellectual property at the LL.M level.[5]

There is an inevitable growth of the cases involving the subject of intellectual property law concommitant to technological explosion, and therefore it is widely accepted that knowledge of intellectual property law must be imparted on a greater scale than that prevailing now. The subject of intellectual property comes within the purview of the Ministry of Industry.

The Controller General of Patents, Designs and Trade Marks has headquarters in Bombay with regional offices in New Delhi, Calcutta and Madras. The subject of Copyright falls within the jurisdiction of the Ministry of Education and Culture and the office of the Registrar of Copyright is situated in New Delhi. The entire subject as one unit is known as the intellectual property law. According to the 1985-86 Annual Report of the Controller General of Patents, Designs and Trade Marks, there is a gradual rise in the applications for Registration of Trade Marks. In the year 1976-77, the number was around 13,500 whereas in 1985-86 it touched a high of 15,956.[6] During the period of the report, 1,583 hearings were posted in respect of opposition, ratification and interlocutory petitions, in addition to 5,067 hearings posted in respect of applications for registration of trade marks. In the same period 19 appeals were preferred in various High Courts against the decisions and orders of the hearing officers. This picture of the extent of litigation involved indicates the need for building up expertise in this subject. The University of Delhi has made a significant contribution in this direction by raising the status of teaching and providing facilities and encouragement for research in this subject.[7] The Faculty of Law has indeed nurtured the subject in manifold ways in spite of the fact that, as seen above, the subject is not accorded the status of a compulsory paper in the syllabus of legal professional courses. The status of teaching and research in the University of Delhi* has been specifically dealt with in the latter part of this report to demonstrate the better side of the otherwise general ordinary report.

Student Strength

Since the subject of intellectual property is taught at the optional level the actual enrollment bears microscopic proportion to the nearly two hundred thousand students attending law courses in India every year. In the University of Bombay nearly 2,500 students appear for the final LL.B examination every year. Out of these, on an average 70 to 80 students choose the elective paper in the subject of intellectual property. At the postgraduate level on an average 100 students appear for the Commercial Law group which has intellectual property law as one of its components. It is our experience that on an average 10-15 students offer for this paper at the LL.M level. It is noted that in the University of Delhi, since a great deal of care has been taken in the teaching of this subject, nearly 700 students choose this subject every year at the LL.B level. Although the total strength of students choosing this subject fluctuates, it is estimated that the total number of student population learning this subject every year does not exceed one thousand out of which nearly 700 belongs to University of Delhi.

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*The report on the University of Delhi is contributed by Professor K. Ponnuswami

Besides the LL.B or LL.M courses wherein the subject is assigned a full hundred marks, we find that the subject of intellectual property is included as one of the components of "Industries Law" which is a compulsory subject for the first semester of the Masters Degree in Management Studies (MMS). The entire paper carries 50 marks and therefore five to six marks are assigned to this subject. Thus nearly 250 MMS students touch upon the fringes of this subject in the University of Bombay. A similar position is likely to obtain in other universities providing for MMS or equivalent degrees.

Techniques of Teaching

New teaching methods with slide shows are hardly visible in any place on account of financial constraints as far as legal education is concerned. The traditional lecture method, supplemented with case method or discussions of problems is the sheet anchor of teaching. We try to inculcate the understanding of the fundamental principles through lectures, and then by the case method the students understand the application of law in a given situation.

The subject of intellectual property has practical and scientific dimensions coupled with socio-economic factors. We therefore endeavour to make the students understand the origin, development and functions of various concepts. Further, in cases of transfer of technology, the subject has an international aspect which also means a comprehensive study of some important systems of law.

At the undergraduate level we also undertake to do tutorial exercises with the students with a view to cultivating in them a spirit of inquiry, critical assessment and evaluation of the doctrines underlying the foundations of justice.

In some of the universities, postgraduate studies in law entail writing a dissertation. It is noted that a student can choose a topic from the intellectual property law irrespective of whether the subject as such is available or not, in the shape of one full paper consisting of 100 marks. Similarly Ph.D (Law) courses can be given in the law pertaining to intellectual property in all the universities having Faculty of Law wherever an internal guide for the subject is available.

Teachers - Exchange Programmes

According to the University Grants Commission, a person with LL.M degree is qualified to be a teacher of law as a Lecturer. He is asked to teach subjects according to the need of the College or Faculty. The teacher concerned, therefore, develops his own scholarship as he matures as a teacher in the course of time as a Reader and Professor. In case the sevices of a part-time teacher or visiting teacher are requisitioned, then mostly teachers are drawn from the local Bar. In the University of Bombay, for instance, we draw heavily on professionals who are visiting or part-time teachers. We try to persuade some learned advocates with specialization in the intellectual property law to engage classes for students opting for this subject. It is common knowledge that good advocates find it difficult to spare time for teaching. It may be conceded that there is dearth of senior professors who have developed juridicial concept through their personal research, analysis and vast learning in the subject of intellectual property law.

There is hardly any known exchange programme involving teachers at inter-university level in the country with regard to this special subject. The only proximate provision seems to be the scheme of National Lecturership provided by the University Grants Commission. It enables the two chosen National Lecturers every year to visit five to six universities and deliver lectures in the field of their eminence. Since full time professors in the subject of intellectual property are too few, the scheme can hardly operate to provide benefit of exchange of experience. There is insufficient knowledge of each teacher's writings and research even at bilateral or regional level because of the non-availability of exchange programmes. No wonder there is very little evidence of interdisciplinary or cross cultural research within the region as far as this subject is concerned.

The present symposium is the first of its kind as far as exchange of experience among teachers of this region is concerned, and hence its contribution cannot be stated in words.

Scope of the Paper

The paper on intellectual property mainly comprises of the following Indian legislations:

i) The Copyright Act 1957

ii) The Patents Act 1970

iii) The Designs Act 1911

iv) The Trade & Merchandise Marks Act 1958

Indeed this is not the correct reflection of the full measure of the subject. The full scope of the paper undoubtedly involves study of relevant rules and international conventions.[8]

Library and Research Facilities

Some Indian books and annual reports[9] on the case laws decided by our courts present the regime of the rule of law. A commentary on national legislation in true sense is always in the making as courts and officers are constantly engaged in interpreting the law. We usually refer the standard foreign books and journals for purposes of interpretation and research. The library and research facilities have improved recently on account of the precious publications of WIPO now made available with the universities of Bombay and Delhi. Barring the case of University of Delhi, where a considerable research and important seminars have progressed in this field, the research activities needs stimulation and encouragement. WIPO has earned the gratitude of the whole world by preparing model laws for developing countries on various aspects of intellectual property law. These publications hold out vast avenues for research leading to concrete suggestions and improvements or adaptations to the needs of a particular region or a country.

Some areas for research may be suggested:

1. Intellectual Property Rights and the Conflict of Laws;

2. Criminal Law relating to Trade Marks and Trade Description;

3. The International Regime of Trade Marks;

4. Assignment of Copyright in Future Work;

5. Innocent Infringement, Counterclaim for Infringement;

6. Exclusive and Non-exclusive Licence under the Copyright Act in all its Ramifications;

7. Trade Marks and Passing Off; and

8. Video Piracy at Home and Abroad.

Action Programme

We have examined the fact that the courses of study leading to the bachelor's degree in law in a university are designed to prepare candidates for the legal profession. A law graduate does not acquire any specialization. He develops and cultivates specialization, if he so wishes, under the pupilage of a senior practitioner or on his own. The Controller General of Patents, Designs and Trade Marks conducts examinations every year for those advocates who would like to specialize in industrial property law. On successful completion of the examination, the advocates are registered as Agents of the Controller General. At present there are such sixty Agents/Advocates who have chosen to specialize in the practice of the industrial property law cases.

The Association of Trade Marks brings out a quarterly journal called Industrial Property Law Reporter. The journal publishes notes, decisions on industrial law, as well as on copyright matter. There is scope for including in the journal articles, book reviews and relevant scientific information.

In the University of Delhi, we have seen the Faculty of Law has made tremendous efforts to promote study and research on certain subjects in intellectual property law which are published or being published. This has been made possible because of the dedication of three full time teachers who are devoted teachers and scholars of this special subject. In fact the work done at Delhi University remains the best standard for others to emulate.

It emerges therefore that in a big country like India, with vast avenues of the operation of the intellectual property, the overall position of the status of teaching and research in intellectual property law is hardly satisfactory. It is imperative to raise this status.

The prevailing circumstances indicate that the pattern for legal education is not likely to change and intellectual property law will continue to get the status of an optional paper among several. It is necessary to strengthen to hands of the law faculties in the universities by providing a full time teacher for this subject. This will encourage a greater number of students to opt for this subject. Simultaneously it is essential to equip the universities and college libraries with all the available legal literature on the subject. We cannot expect part-time teachers drawn from local Bar to promote research by putting in self efforts and encouraging the students.

Hence to provide and increase the emphasis on teaching and research in intellectual property which is the felt necessity of time, some suggestions are offered:

An Institute of Intellectual Property Law may be set up. This Institute should become a center of the studies, research and information on all matters relating to the intellectual property law. It is suggested that, to avoid bureaucratic management, the Institute be funded and set up by a munificent grant from WIPO. The Director of the Institute should be a nominee of WIPO. The Institute should conduct national seminars/refresher courses and disseminate information to the universities, teachers, advocates and scholars in particular, and to the public in general, on payment of reasonable fees. The Institute will establish rapport in due course with all the universities and colleges conducting this course with a view to improving the status of teaching and research on this subject. The Director could visit the universities and colleges for giving guideline lectures/seminars. In due course the Institute could publish a journal for providing emphasis to the awareness of the subject and its development through learned articles and other features. The Institute could provide courses in M.Phil and Ph.D on being recognised by the university of the jurisdiction concerned.

The Institute Library should provide the following services, among others:

a) periodic lists of acquisitions;

b) periodic lists of articles on important subjects from the law journal received by the library;

c) reference service;

d) bibliographical services;

e) classifications and cataloguing of materials;

f) documentation;

g) photo copying and mimeograph facilities;

h) noting up of materials.

A Chair in this subject may be set up in the Faculty of Law of some selected universities in the country which could function within the set up of the universities to serve the above objectives. However, the benefits will be limited to the particular university, and again the professor concerned will be subject to the constraints of university management, controls and policies, if not finances.

Endowment lecture series in this subject may be set up in some universities, mainly to serve the above mentioned objectives, and also to commemorate the name of the donor who will undoubtedly be a patron of the subject. This will, however, create a temporary importance of the subject as endowment lectures are opened to the public and cater to local scholars only. Further it is our experience that hardly any follow up action is planned after the lectures are over, mainly because of lack of machinery.

The literature on intellectual property, mostly published abroad, is fairly expensive and the State universities, within their limited budget, find it extremely difficult to acquire and maintain an adequate collection of books

and documents on an optional subject with marginal weight. We in India do not get the copies of unpublished dissertations, or monographs, unless resources are found for mimeographed copies of such useful literature. The efforts to produce text books on this subject at national level are directed mainly to cater to the needs of the profession, and not to produce any scholastic research work for the development of the subject.

We hope that WIPO, in consultation with other concerned authorities like our University Grants Commission and other authorities, will consider initiating some special assistance to promote the study and research in this subject. Interdisciplinary studies in the international law and intellectual property law may also be encouraged.

Thus the action programme should comprise of three pronged agenda, viz:

(1) selecting the place for setting up an Institute;

(2) making available the resources;

(3) creating a band of devoted teachers--trained personnel for successfully translating the objectives of the Institute through the length and breadth of the country.

PRESENT STATUS OF TEACHING AND RESEARCH OF INTELLECTUAL PROPERTY LAW IN THE UNIVERSITY OF DELHI*

It was not until the mid-60's that intellectual property laws found a place in the LL.B curriculum of the University of Delhi. Their inclusion can be traced to the recommendations of a high powered committee headed by the Chief Justice of India which studied in-depth the question of reorganization of legal education in the University and prepared an invaluable report. These recommendations were implemented by the University with commendable enthusiasm and speed. Fundamental changes of almost a revolutionary character in legal education were ushered in. The LL.B course became a three year post-graduate course--hitherto it was of two year's duration. The semester system was introduced and each year was divided into two semesters. In each semester five subjects had to be studied; in all, 30 in three years. Teaching was no longer to be in the form of lectures but by the case-method involving active student participation. The examination system was radically changed shifting the emphasis from rote-memory to problem-solving. Numerous elective courses, several of them never taught before in any Indian university, were introduced in the second and third years of the LL.B course.

One of these new courses was the one on "The Law of Patents, Trade Marks and Copyright." In the previous decade India had enacted a new trade mark legislation and a new copyright statute. A new patent legislation was in the making. Colonial legislations were being replaced. It was most opportune to introduce a course on them in the law school at this time. Thus it will be seen that in the University of Delhi we have had this course on intellectual property laws for over two decades and we have perhaps the longest experience in teaching that subject in India. In recognition of this fact the only professorial chair in industrial property law has also been established in that university.

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* Professor K. Ponnuswami, University of Delhi, India

The course is taught in all the three units comprising the Faculty of Law by full-time academics. On an average between 600 and 700 students do this elective course every year and six or seven full-time teachers are involved in teaching it. The course is taught for three hours (approximately) per week for 12 to 13 weeks in the semester. Student enrollment in this course has been steadily growing year after year attesting to student interest in the subject and awareness of the growing importance of this speciality.

Aspects of intellectual property law are also encompassed in other courses taught in the LL.B programme such as the course in the law of monopolies and restrictive trade practices (e.g. unfair competition) and international trade (e.g. transfer of technology). The teachers teaching these other courses can be included among those teaching intellectual property laws in a broader sense.

Our experience is that a single semester three-unit course in patents, trade marks and copyright is grossly inadequate for doing justice to this complex field of specialization. There is consensus among teachers teaching the courses that it must be expanded into a full year (two semester) course. At present, much time (roughly, two-thirds of the available time) is devoted to trademark law which is of the greatest importance to the practising lawyer in India as there is much litigation with respect to trade mark registration and infringement. Though India has a very large copyright industry - we have a large literary and musical publishing industry, a huge cinematograph industry, and a sound-recording industry--yet copyright litigation is relatively less substantial. Accordingly, less time is devoted to teaching copyright law. The law of patents, the most complicated of the three, gets the least attention. In all the three areas the international law aspects do not receive sufficient emphasis. We feel that this situation is hardly satisfactory, particularly in view of the ever-expanding scope of legal protection in these areas due to technological explosion and their ever increasing economic and legal importance. We expect that before the turn of the decade this inadequacy will be remedied both by enlarging the scope of the course and by spreading it through two semesters.

It is a matter for regret that we have not yet introduced subjects of intellectual property law in our LL.M programme, though exercises have been in progress towards that end for the past few years. We are agreed that this is most essential for strengthening research in intellectual property law and that it must not be deferred any longer. The LL.M course is essentially an advanced, research oriented programme. It is a pre-requisite for appointment to the teaching Faculty of a law school. Also, students desirous of advanced level specialization for their careers join the LL.M course and we have even subordinate judicial officers pursuing the LL.M course. The absence of intellectual property law subjects at the LL.M level is a serious deficiency which it is hoped will be remedied as soon as possible.

It must, however, be mentioned that even at present every student is required to write a long dissertation as part of the LL.M programme, and takes a course in "Legal and Social Science Research Methodology" to equip him to do the research for writing his dissertation. Students are free to choose problems of intellectual property law for research and dissertation. Recently a good dissertation was produced by one of our students on "video-piracy", a serious problem plaguing our cinematograph industry. We have also an active Ph.D programme with a substantial enrollment. We have students registered for

Ph.D in the area of intellectual property. But the absence of courses in intellectual property law in the LL.M programme has an inhibiting effect on a student choosing that field for his LL.M dissertation or Ph.D thesis.

Apart from the regular curricular courses in intellectual property law, the Faculty has two co-curricular activities worth mentioning in this context. First, there are regular meetings of teachers in discussion groups. Papers are presented at these meetings and then thrown open for discussion. Several papers on intellectual property law have been presented at these meetings. The author of the paper benefits by these discussions to eventually getting them ready for publication. Secondly, the Faculty organizes national seminars inviting participants from other universities, industry and government. Last year one such seminar was organized on the crucial, and in India presently controversial, question of India's accession to the Paris Convention. The proceedings of the seminar are being published.

In recent years scholarly writing in the field of intellectual property law both in legal periodicals and special works is significantly on the increase. The contribution of the Faculty of Delhi forms a sizeable proportion of these publications. There is reason to believe that more work is under progress and a substantial output can be expected in the next few years. The developments in the field of intellectual property law are now being surveyed in its Annual Survey Of Indian Law by a member of the Delhi Faculty. The India Law Institute is bringing out a special number to commemorate the centenary of the Berne Convention and the contribution of the Delhi Faculty to that project is substantial.

In sum, the experience in Delhi is encouraging, though there are shortcomings to be attended to and deficiencies to be made good. There is still a long way to go, but the trends are clear. There is an awareness of the importance of intellectual property laws in the law school's academic agenda and there are definite indicators that the future will see greater participation and involvement. The Delhi Law Faculty has been a pace-setter in Indian legal education in recent times. It is important that it keeps up the tempo and accelerates its pace to be in tune with the fast changing world of intellectual and industrial property.

REFERENCES:

1. Article 38, Consititution of India, 1950

2. T. K. Oommen, "The Legal Profession in India: Some Sociological Perspectives," Indian Bar Review, Vol. 10 (1): 1983, p.1 at p.25

3. Ibid

4. Please see Annex I

5. Ibid

6. Annual Report of the Controller General of Patents, Designs and Trade Marks, 1985-'86, p.7

7. See latter part of this report

8. Please see Annex II

9. Please see Annex III

[Annexes I to III follow]

ANNEX I

INTELLECTUAL PROPERTY LAW

Information regarding teaching of Intellectual Property Law at various Indian universities.**

UNIVERSITY		COURSE LEVEL	
		LL.B	LL.M
Agra	...	x	-
Aligarh	...	x	-
Banaras	...	x	-
M S, Baroda	...	x	x
Bharathiar	...	x	-
Bombay	...	x	x
Delhi	...	x	-
Garhwal	...	x	-
Gorakhpur	...	x	-
Kerala	...	x	x
Madras	...	x	-
Meerut	...	x	-
Panjab	...	x	-
Patna	...	x	-
Poona	...	x	-
Ranchi	...	x	-
Rohilkhand	...	x	-
Saurashtra	...	x	x
Shivaji	...	x	-
South Gujarat	...	-	x
Simla, H.P.	...	x	-

** UNIVERSITIES HANDBOOK
1985-'86
(AIU Publication, New Delhi)
&
DIRECTORY OF LAW COLLEGES IN INDIA, 1971
Indian Law Institute.

[Annexes II and III follow]

ANNEX II

LEGAL LITERATURE ON INTELLECTUAL PROPERTY LAWS

C O P Y R I G H T:

The Copyright Act 1957

Aggarwala: The Copyright Act 1957 (1958)

Blanco-White: Copyright

Bogsch: The Law of Copyright under the Universal Convention

Copinger, W. A. & Skone James: Copyright including International Copyright with the Statutes and Orders relating thereto and Forms and Precedents

Copinger & Skone James: Law of Copyright (1958) (1971)

Dadachanji R.R.: Law of Copyrights and Movie Rights in a Nutshell

Eddy J.P. Esq.: The Law of Copyright (1957)

Ghose Madhuri: Copyright Act

Heigh Laddie, Peter Rescott & Mary Victoria: The Modern Law of Copyright

Heilprin L. B.: Copyright & Photocopying (Papers on Problems & Solutions design for a Clearing house)

Herbert S. White (Ed.): The Copyright Dilemma (1978) (American Library Association)

Iyengar T. R. S.: Indian Copyright Act (1959)

Jones R. W.: Copyright & Trademarks

Johnston D. F.: Copyright Handbook

Jehoram H. C.: Copyright Contracts (1978)

Lowenthal R.: Copyright in China

J. Lahore (Prof.) G. Dworkin (Prof.) & Y. M. Smyth: Information Technology: The Challenge to Copyright

Leaper W. J.: Copyright and Performing Rights (1957)

Leon E. Seltzer: Exemptions & Fair Use in Copyright (1978)

Narayanan P: Copyright Law (1986)

Newcity M. A.: Copyright Law in the Soviet Union (1978)

Patterson L. R.: Copyright in Historical Perspective

Russell Clarke A. D.: Copyright in Industrial Designs

Shone F. E. (James): Copyright Modern Law and Practise

Srinivas Iyengar & Aggarawala O.P.: Copyright Act 1957 (1972)

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UNESCO: ABC of Copyright

P A T E N T S

Baxter: World Patent Law and Practice

Berle-Decamp: Inventions, Patents and their Management (1959)

Ladas S. P.:Patents, Trademarks and Related Rights - National & International Protection, vol. 1-3

Narayanan P: Patents Law

Robert A. Choate & William H. Franis: Patent Law - Trade Secrets - Copyrights - Trademarks cases & Materials (2nd ed.) (1980)

Patents Act - 1949 - 1961 - With Commentary (2nd ed.) Chartered Institute of Patents Agents

Patents Act 1970 & Patents Rules 1972 with Short Notes

Terrel: The Law of Patents

Vaughan F. L.: The United States Patent System 1956

T R A D E M A R K S

Annual Survey of Indian Law, Indian Law Institue (every year)

Narayanan: Trade Marks (1981)

A. Ramaiya: The Trade and Merchandise Marks Act 1958 (1960)

S. Venkatesnwaran: The Law of Trade and Merchandise Marks (1963)

T. A. B.anco-White: Kerly's Law of Trade Marks Act 1958 (1972)

K. S. Shavaksha: The Trade and Merchandise Marks Act 1958 (1974)

The Trade and Merchandise Marks Bill 1958 - Report of Jt. Committee (1958)

The Trade and Merchandise Marks Act 1958

WIPO Publications:

The Situation of Industrial Property in the Countries of Asia and the Pacific - A survey prepared by the International Bureau of the WIPO, 1984, Geneva

Model Law for Developing Countries on Industrial Designs, 1970

Tunis Model Law on Copyright for Developing Countries, 1976

Model Law for Developing Countries on Appellations of Origin and Indications of Source, 1975

WIPO Model Law for Developing Countries on Inventions, Volume I, Patents, 1979

Guide on the Industrial Property Activities of Enterprise in Developing Countries, 1983

Licensing Guide for Developing Countries, 1977

Patent Agency Course, 1981

Legal Training Course on Patents, 1981

Model Law for Developing Countries on Marks, Trade Names, and Acts of Unfair Competition, 1967

Legal Training Course on Trademarks, 1982

Model Law concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organisations with a Commentary on it, 1982

Industrial Property (Monthly Journal)

Copyright

Intellectual Property in Asia and the Pacific (Quarterly journal)

[Annex III follows]

ANNEX III

INTELLECTUAL PROPERTY LAW IN INDIA:

Legislation

(a) Current Natonal Legislation

(i) Inventions

The Patents Act, 1970, No. 39 of September 19, 1970.

The Patent Rules, 1972, notification S.O. 301 of April 20, 1972, as amended up to November 1977.

(ii) Industrial Designs

The Designs Act, No. 11 of 1911, (as amended up to September 1970) Designs Rules, 1933, (as amended upto April 1972).

(iii) Distinctive Signs

The Trade and Merchandise Marks Act, 1958, No. 43 of November 5 1959, as amended by the Patents Act, 1970.

Trade and Merchandise Marks Rules, 1959, s.o. 2603 of November 25, 1959, as amended in 1963 (s.0534), in 1969 (s.o. 397) 1971 (s.o. 5789).

Public notice issued by the Registrar of Trade Marks of 1979 (non-registrability of trademarks for certain pharmaceuticals).

The Emblems and Names (Prevention of Improper Use) Act, 1950

Drugs and Cosmetics (Amendment) Rules, 1981, (Public notice issued by the Registrar of Trade Marks).

(iv) Other Industrial Property Rights

Ministry of Commerce and Industry Notification on Indications of Origin of Goods, s.o. 1272, of April 28, 1962.

(v) Consumer Protection

Consumer Protection Act 1986

(vi) Revision of Current Legislation

Working groups for reviewing the Patents Act, 1970, and the Designs Act, 1911, have been constituted.

(vii) Protection of Literary, Artistic Works, etc

Copyright Act 1957
Copyright Rules 1958.

(b) Membership in Treaties

(i) Multilateral Treaties

Convention Establishing the World Intellectual Property Organization (WIPO), since 1975.

Nairobi Treaty on the Protection of the Olympic Symbol, since 1983.

The Berne Convention for Protection of Literary and Artistic Works, 1886.

The Universal Copyright Convention, 1955.

Geneva Convention, 1979.

(ii) Bilateral Treaties

Patent Convention between India, the United Kingdom, New Zealand, Canada, Ireland and Ceylon (Sri Lanka), dated April 20, 1972.

Patent Convention between Australia and India dated December 29, 1972.

Reciprocal arrangements for the mutual protection of Industrial Designs exist between India and the United Kingdom (1938) between India and New Zealand dated April 13, 1922; between India and Australia dated October 16, 1983; and between India and Eire dated August 4, 1928.

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