

NLUJ- CIPS WEBINAR

On Patent Law



SAIKRISHNA & ASSOCIATES
ADVOCATES



Our Themes and Guest Speaker Lineup

Competition Law and Patents

Ms. Sneha Jain (Partner)

Biotech and Patents

Dr. Amitavo Mitra (Partner)

Dispute Resolution and Patents

Ms. Sneha Jain (Partner)



Date

21st January, 2024

Registration Fees:

For Students - INR 500/-

For Professionals - INR 750/-

ABOUT THE UNIVERSITY

National Law University, Jodhpur (“NLUJ”) is a premier national law school of global repute imparting quality education in India. The University is established under the National Law University, Jodhpur, Act, 1999, enacted by the Rajasthan State Legislature. It is dedicated to academic excellence and value education. NLUJ frequently offers training programmes, seminars and workshops at the national and international level to students, judicial officers, advocates, corporate and government officials in various subjects. NLUJ has 27 centres of academic excellence in various areas of law and their intersections. Honourable Vice Chancellor Prof. (Dr.) Harpreet Kaur has led from the front and provided all manner of support to quality academic programmes.

ABOUT THE ORGANISERS

The Centre for IP Studies (“CIPS”) at National Law University Jodhpur, is a centre of academic excellence focussed on creating a niche space for research in intellectual property. It is headed by Mr. Arunabha Bannerjee, Executive Director, CIPS, who is assisted by faculty advisor, Ms. Kanika Dhingra. CIPS engages with the community and creates avenues for spreading awareness in Intellectual Property. Its combination of motivated faculty and students aims to make the domain of intellectual property accessible to all through its initiatives. As a part of its dedicated Centre activities intended to promote research and studies in the field of Intellectual Property Rights, the Centre has taken the initiative to organise the conclave. The Centre monitors, designs and disseminates various courses and programmes pertaining to training and research in Intellectual Property Rights.

SCHEDULE OF SESSIONS

Session 1: 10 AM - 12 PM

Session 2: 1:00 PM - 2:30 PM

Session 3: 2:30 PM - 4:15 PM

SESSION 1

Competition Law and Patents

Competition legislation serves as a formidable tool for implementing and enforcing competition policies, thwarting anti-competitive practices, and curbing unnecessary government interference in the market. The primary motive behind enacting competition laws across diverse jurisdictions is to safeguard opportunities for small and medium-sized enterprises, ensuring equity and fairness in market transactions, particularly concerning intellectual property owners. In the realm of intellectual property, a patent bestows exclusive rights upon its holder for a novel invention with industrial applicability.

A country's patent legislation acts as a delicate balance between the interests of patent owners and the public, aiming to foster technological innovation, scientific exploration, and economic progress by protecting an inventor's investments in research and development. The interplay between competition and patent laws becomes evident in India, where the Competition Act of 2002, aligned with the TRIPS agreement, exempts intellectual property rights (**IPR**) licensing agreements from certain anti-competitive provisions. This exemption facilitates a path for intellectual property owners to navigate competition law constraints, encouraging innovation and scientific research.

However, a potential conflict arises when the Competition Commission identifies a patent holder abusing market dominance by imposing unjustifiable barriers to entry or production for other businesses. In such instances, the actions of the patent holder may fall under the purview of anti-competitive practices, as outlined in Section 3 of the Competition Act. Thus, the relationship between competition and patent laws involves a delicate balance, aiming to foster innovation while preventing monopolistic abuses.

SESSION 2

Biotech and Patents

The uniform application of patentability requirements across all technological sectors, as stipulated in patent laws, encounters distinctive challenges when addressing biotechnological advancements. The considerations encompass the scope and legal prerequisites for patent protection. While the Agreement on Trade-Related Aspects of Intellectual Property Rights (**TRIPS Agreement**) theoretically allows patents for inventions across all technological fields, the contentious issue of patentability arises concerning biological materials isolated from or derived from living organisms. Divergent views persist, with some categorizing these materials as mere "discoveries" and hence non-patentable, while others deem them as "inventions" crafted by human intervention.

India's Patent Act, instituted in 1856 and subject to multiple amendments, lacked specific provisions for biotechnological creations until 2002. An amendment was introduced to encompass biochemical, biotechnological, and microbiological processes as potentially patentable. However, the Act excludes certain inventions, deeming them non-patentable if they are immoral, illegal, dangerous, or environmentally harmful.

The case of *Dimminaco A.G. v. Controller of Patents and Designs & Ors* exemplifies the intricate evaluation of patent applications, particularly for biotechnological innovations like infectious Bursitis vaccines. The challenges extend to areas such as organ transplantation, raising ethical concerns and contributing to the broader discourse on biotechnology and patents in India.

SESSION 3

Dispute Resolution and Patents

Navigating the arbitrability of patent infringement claims is a complex endeavor, particularly within the framework of dispute resolution clauses commonly embedded in patent licensing agreements. The interplay between arbitration and patent disputes raises challenging questions surrounding the enforceability and breadth of such clauses. The Aloys Wobben case exemplifies the doctrine of election, accentuating the significance of a party's chosen forum in resolving patent disputes and further complicating the landscape. Recent developments, such as the establishment of Intellectual Property (IP) Divisions in various High Courts, introduce an additional layer of complexity to jurisdictional considerations. These specialized divisions acknowledge the distinctive nature of intellectual property disputes, potentially influencing the adjudication of patent infringement claims. The intricate web formed by arbitration, dispute resolution clauses, the doctrine of election, and the emergence of specialized IP Divisions highlights the dynamic and evolving nature of legal considerations in the realm of patent law. Addressing these complexities demands a nuanced understanding of both the contractual frameworks within licensing agreements and the evolving judicial structures designed to handle intellectual property disputes.

ABOUT THE SPEAKERS

Dr. Amitavo Mitra

Amitavo is a Partner with the patents practice at Saikrishna & Associates with about 10 years of experience in the IP domain, particularly patents. Amitavo joined the legal domain of patents after obtaining his PhD in Genetics from Dartmouth College (NH, USA) followed by brief post-doctoral stints at the Tufts Medical Center (Boston MA) and at the Indian Institute of Immunology (NII, New Delhi). He specializes in the space of life sciences, particularly biotechnology, pharmaceuticals, biomedical devices, and material science. Amitavo regularly advises clients on patent strategy and portfolio development, including Plant Protection laws, and Biodiversity laws and regulations in India. He comes with an extensive experience in patent contentious matters spanning various technical domains and also assists in patent litigation matters with the litigation team at the firm.

Ms. Sneha Jain

Sneha is a Partner with the litigation practice at Saikrishna & Associates and provides litigation and dispute resolution advice in all branches of IP laws, having particular expertise in cross-border IP violations including multi-jurisdictional patent disputes, IP arbitration, trademark, intermediary liability, data privacy, information technology, anti-trust issues, and unique media issues in the fast evolving sector. She also regularly provides dispute resolution and general advisory, and regularly appears as first and/or second chair in matter before various fora, including tribunals such as TDSAT, FACT, institutional arbitrations, High Courts across the country, and the Supreme Court. She has played a central and leading role in many landmark cases handled by Saikrishna & Associates, many of which have resulted in establishing jurisprudence on the subject - such as first anti-anti-anti suit injunction in India, constitution of confidentiality club in Standard Essential Patent (SEP) matters.

ELIGIBILITY

1. Students pursuing three or five-year integrated law course, L.L.M. or any other science /technology-based courses may apply. The workshop is also open to academicians and industry professionals.
2. All participants will be awarded an e-certificate on attending all the three sessions of the workshop.
3. Participants must join the link to the Webinar at least 15 minutes prior to the start of each session.

REGISTRATION DETAILS

- i. The expression of interest can be done through a Google form by 19th January, 2024, by 11:59 pm by registering in this link: <https://forms.gle/yMfk8zMoeF9gtSRY>. The participants are required to make the payment on the link mentioned below in point (iv) and then fill the google form for the confirmation of their registration.
- ii. Each participant shall be required to pay a registration amount of:
 - a. Rs. 500 for Students and Ph.D. Research Scholars, and
 - b. Rs. 750 for all Professionals (other than Students and Ph.D. Research Scholars).
- iii. The registration amount must be paid by 19th January, 2024, by 11:59 pm.
- iv. Each participant shall pay the registration fee through the following link: <http://www.nlujodhpur.ac.in/nlu-fees/fees-student-detail> by choosing “NLUJ CIPS Webinar on Patent Law (For Students/For Professionals)” Option and specifying the purpose of payment as “NLUJ-CIPS Patent Law Webinar”.

IMPORTANT DATES

- **Last Date for Expression of Interest:** 19th January, 2024 by 11:59 PM.
- **Registration and Payment of Registration Fee:** 19th January, 2024, by 11:59 PM.
- **Acknowledgment Mail:** 19th January, 2024, by 11:59 PM.
- **Workshop Date:** 21st January, 2024.

PATRON

Prof. (Dr.) Harpreet Kaur
Hon'ble Vice Chancellor
National Law University, Jodhpur

PROGRAM COORDINATOR

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ORGANISING TEAM

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