

## **Webinar Report on “An Overview of IPR”**

On 23<sup>rd</sup> September 2020 webinar on ‘An overview of Intellectual Property Rights’ was organized. There were 170 participants registered for the webinar and over 135 participated in this webinar. The programme began with the welcome note proposed by Smt Deepu.P, Principal.



Dr. M.N Bheemesh, Senior Advocate at ALMT Legal, Advocate & Solicitor, Bengaluru speaking in this occasion highlighted the meaning and importance of IP he said, Intellectual property (IP) is a term referring to a brand, invention, design or other kind of creation, which a person or business has legal rights over. Almost all businesses own some form of IP, which could be a business asset. Common types of IP include: Copyright – this protects written or published works such as books, songs, films, web content and artistic works; Patents – this protects commercial inventions, for example, a new business product or process; Designs – this protects designs, such as drawings or computer models; Trademarks – this protects signs, symbols, logos, words or sounds that distinguish your products and services from those of your competitors. IP can be either registered or unregistered.

With unregistered IP, one can automatically have legal rights over his creation. Unregistered forms of IP include copyright, unregistered design rights, common law trademarks and database rights, confidential information and trade secrets. With registered IP, one will have to apply to an authority, such as the Intellectual Property Office in the UK, to have your rights recognized. If they do not do this, others are free to exploit the creations. Registered forms of IP include patents, registered trademarks and registered design rights. Copyright is also registerable.

Further speaking on International considerations he said, India has been a World Trade Organization (WTO) member since 1995. WTO member nations must include some IP protection in their national laws. This means that if you are doing business with India, you will find some similarity between local IP law and enforcement procedures, and those in force in the UK. Under the Paris Convention, any person from a signatory state can apply for a patent or trade mark in any other signatory state, and will be given the same enforcement rights and status as a national of that country would be; Under the Berne Convention, each member state recognizes

the copyright of authors from other member states in the same way as the copyright of its own nationals; Under the Madrid Protocol, a person can file a single trade mark application at their national office that will provide protection in multiple countries; Under the Patent Cooperation Treaty, a central system for obtaining a 'bundle' of national patent applications in different jurisdictions through a single application. India is not a signatory to the Hague Agreement, which allows the protection of designs in multiple countries through a single filing.

Speaking on registering and enforcing IPR in India, he said to enjoy most types of intellectual property (IP) rights in India, you should register them. For patents, individual registrations must be made in India, but for rights other than industrial designs one can apply under the terms of the Patent Cooperation Treaty, which is usually easier and quicker. For trademarks, one should register them within India, either through the domestic trade mark system or under the Madrid system. For copyright, no registration is required but registering copyrights with the copyright authorities is advisable. 'Priority rights' under the Paris Convention can help in the local registration of trade marks, designs and patents by allowing rights previously registered elsewhere to become effective in India, if filed within a time limit. These IP rights can be enforced by bringing actions to the civil courts or through criminal prosecution. India's IP laws set out procedures for both civil and criminal proceedings, as does the Competition Act. Criminal proceedings do not apply to patent and design infringements. A disadvantage of civil litigation is that you are unlikely to recover large damages, and punitive damages against an infringer are rare. However, if you have an identified infringer, it may be advisable to launch civil litigation, because if an interim injunction is granted the infringement can be halted pending the outcome of the case. Damages are routinely awarded in cases of copyright piracy and trade mark infringement; less so in patent cases. Over the years, however, decisions in favour of foreign companies against local infringers have demonstrated the judiciary's impartial approach. As in other countries, the Indian Government brings actions in criminal cases, although in most cases actions follow complaints to magistrates or police authorities by rights owners. Criminal proceedings against infringers carry the prospect of much harsher remedies, including fines and imprisonment. Mediation or negotiation with an infringer can also be effective as an alternative form of dispute resolution. The Civil Procedure Code provides for a formal mediation process.

Concluding his address he said although Indian IP law is thorough and generally comparable with European IP laws, there are still significant concerns over IP enforcement. A major cause for concern in enforcement is bureaucratic delay, with a backlog of cases at both the civil and criminal courts. This means that cases can run for five years or more. There is also a lack of transparency, particularly at a local level. A significant feature of the IP environment in India is the large number of small players infringing IP rights. This means that seizures tend to be small,

which requires a sustained and financially draining effort in order to make an impact. An advantage for UK businesses operating in India is that the legal system is based on common law, as in the UK, so the fundamental processes are familiar.

The webinar concluded with the vote of thanks proposed by Sri Shivakumara H.S.