

National Conference for High Court Justices on Law and Technology (IPR and
Cyber Laws) P 875
December 13-14, 2014

Program Report

Nidhi Gupta (Programme Coordinator)

National Judicial Academy organized a two days conference for the High Court judges on 13th and 14th December 2014. 21 Justice from across the country participated in this conference. Day one of the conference was chaired by Hon'ble Justice Arun Mishra, Judge, Supreme Court of India and Justice Aftab Alam, Former Judge, Supreme Court of India, currently Chairman, TDSAT. Justice PP Naolekar, Former judge, Supreme Court of India, currently Lokayukta, Madhya Pradesh chaired the sessions on day two, the 14th December, 2014. Experts on the intellectual property rights who addressed the participants were: Prof. Biswajit Dhar, Professor, Centre for Economic Studies and Planning, School of Social Sciences, Jawaharlal Nehru University, New Delhi; Dr. Raman Mittal, Associate Professor, University of Delhi; Dr GR Raghavender, Director (IPR), Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India. The cyber law experts who addressed the participants on December 14th were: Mr. Pavan Duggal, Advocate, Supreme Court of India and Mr. Sastry K Pendalaya, Cyber Forensic Expert.

On day one of the conference after opening remarks of Prof. Geeta Oberoi, director in-charge, NJA, Ms. Nidhi Gupta, Assistant Professor, NJA, who had also designed the program gave an introduction to the conference. She explained the rationale behind selection of different topics in the vast area of IPR and Cyber Laws, and also pointed out the expected outcomes of the conference. Justice Arun Mishra gave a brief introduction to the subject of IPR. He also flagged certain issues which need to be addressed by the Judges while dealing with matters relating to IPR. Addressing the participants on the theme, "*Role of IPR in Economic Development*", Prof Biswajit Dhar pointed out close connection between the political economy of a country and its patent laws. He explained the effect of TRIPS from 2005 onwards on the economy of developing countries and highlighted how in pre-2005 situation India, patent law of India made it possible for our country to earn the title of 'pharmacy of the world'. He also explained the process of treaty negotiations and efforts made by the Indian government during this process to fight monopolization and to protect nation's interest. The issue of monopolization and role of courts in protecting our nation's interest was taken further in the second session, as Justice Aftab Alam addressed the participants on the theme: "*Protecting Public Interest in IPR litigation*". As an author of the celebrated Novartis judgment, which deals with the issue of IPR in the pharma industry, Justice Alam shared with participating judges some moments of his journey in writing this judgment. He pointed out that while the term public interest is not used even once in the judgment, the theme of public interest runs throughout the judgment. He drew attention of the participants towards practice of "evergreening" adopted by the multinational corporations to the disadvantage of developing countries. He also highlighted that it may not be right to see patent law as a matter of mere private interest. He stated that granting of patents and protecting intellectual property rights is as much a matter of public interest as to prevent monopolization. Reporting extensively from the Aiyangar Committee report included also in the Novartis judgment he also highlighted the connection the political economy and the patent law of any

country. He also pointed out how the share of India declined in the world pharma industry after 2005, after amendments in Indian Patent Law to meet TRIPS obligation. He opined that while India was forced to liberalise its patent regime after 2005, the Indian Patent Act offers enough scope to the courts for protecting public interest. He drew special attention towards sections 2(1) (j), (ja) and 3(d), which allow the courts to minimize the disadvantageous effects of transition from process patent to product patent.

While the pre-lunch sessions were focused on public interest sessions, the post-lunch sessions were used for detailed discussions on topics other than patents such as copyright, trademark, designs etc. Dr. Raghavender addressed the participants on the issue of copyright and discussed 2012 amendments in the Copyright Act. Dr. Raman Mittal, from the University of Delhi while discussing various legal provisions also drew attention towards various conceptual distinctions such idea v expression, trademark v design, which lie at the heart of laws relating to intellectual property rights. The last session on day one was time for open discussion, where Justice Arun Mishra encouraged the participants to various challenges faced by the Courts in enforcement of intellectual property rights. The attention was drawn towards increasing difficulty in effective enforcement of intellectual property rights with the advent of digital era.

Day two of the conference was devoted to the theme of Cyber Laws. The sessions on day two were chaired by Hon'ble Justice PP Naolekar. The first session was addressed by Mr. Pavan Duggal, Senior Advocate from Supreme Court of India. He chronicled the increasing instances of cyber crimes in the country and how the information technology is being used both to the advantage and disadvantage of the people. He discussed various provisions of the Information Technology Act and also point out the controversies associated by section 66-A and abuse of the same by enforcement authorities in recent years. Session two was addressed by Mr. Krishna Sastry, a cyber forensic expert. Addressing the participants on the theme, "understanding cyber crimes" he highlighted progression in the nature of crimes during last two decades. He pointed out three generations of the cyber crimes in India and showed how the world has moved from individualistic crimes to use of digital technology in more organized crimes and crimes against nations. He also introduced participants about security threats faced by the individuals as well as by the nations as a whole. The conference ended with a vote of thanks from Ms. Nidhi Gupta.