

Newsletter Dec 2007

Concept & Editing by: Dr. Niti Dewan

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Infringement : Bajaj Auto Vs. TVS

One of the leading two- wheeler manufacturer, Bajaj Auto Ltd is planning to sue south Indian rival TVS Motor Co for "infringing" upon intellectual property rights of its patented digital twin spark ignition (DTSi) technology". Bajaj Auto holds an Indian and several foreign patents for this technology. Two of the most popular models manufactured by Bajaj Auto, 'Pulsar' and 'Discover' are powered by DTSi engines.

According to the press release issued by Bajaj Auto, there is a clear case of IPR violation by TVS on three counts and the company's legal department is preparing to go to court at the earliest. "The first is the purpose for which they are doing it (use of twin spark ignition for enhanced performance and better mileage). Secondly, the size (of engine) is same and third, construction of engine is also the same,"

TVS, on the other hand, has said that "Flame" one of its forthcoming model, is fitted with a three-valve engine working on the CCVTi technology, which is different from Bajaj's DTSi. In retaliation to the allegations as leveled by Bajaj Auto, TVS has filed a Rs 250-crore defamation suit in the Bombay High Court.

Patent office rejected Astra Zeneca's patent application for Gifitinib

After hearing pre-grant oppositions filed by Natco Pharma Ltd and J M Pharmaceuticals Ltd, for more than a year, the patent office in New Delhi has rejected pharmaceutical giant AstraZeneca's patent application for its lung cancer drug Iressa (Active ingredient:Gifitinib)

The patent office rejected the application citing the provisions of section 25(1) d "known prior use" of the drug.

Earlier patent applications pertaining to imatinib (Gleevec®) from Novartis and teriparatide DNA origin(Forteo®) from Eli Lilly have been rejected by the Indian Patent office as a result of spate of pre-grant oppositions filed by several Indian pharmaceutical companies and few NGOs.

Delhi High Court restrains YouTube.com from showing T-Series albums

Super Cassettes Industries Limited (SCIL), also known as T-Series, has moved the Delhi High Court, and obtained an interim restraint order against You Tube and its parent company, Google, for 'rank infringement of music copyright'. You Tube LLC and its parent, Google Inc., have on their website YouTube.com been showing videos of SCIL's copyrighted songs without SCIL's license or permission.

New Geographical Indications in the Pipeline

According to the news sources there are few more commodities like monsoon Malabar coffee, Tellicherry pepper, Aleppey green cardamom, Nilgiris tea and Assam orthodox tea that are in pipeline and set to get the status of Geographical Indication from the Government.

Geographical indication is an indication that the particular goods have originated from or are manufactured in a particular territory. Classic example of international Geographical Indication is Champagne. The goods can be in any form natural, manufactured or agricultural. The special characteristics of the goods relate them to the geographical territory so they are termed as Geographical Indications. Few examples of Geographical Indications in India are Darjeeling Tea, Mysore silk, Paithani Sarees, Kota masurai, Kolhapuri Chappals, Bikaneri Bhujia and Agra Petha.

PCT Convention : Announcement of New member country Angola (Country: AO)

On September 27, 2007, Angola deposited its instrument of accession to the PCT. The instrument will be in force from December 27, 2007. Consequently, any international application filed on or after December 27, 2007 will automatically include the designation of Angola in it. This brings the total number of PCT signatory countries to 138. The total no. of countries signatory to the Paris Convention is 172. Furthermore, nationals and residents of Angola will be entitled, as from 27 December 2007, to file international applications under the PCT.

Guidelines for selection of International Searching Authority

All the international searching authorities do not issue international search reports for all types of subject matters. Before choosing an international search authority, it is imperative to check whether it deals with the subject matter of one's application. In the event that the selected international search authority doesn't deal with one's subject matter.

A list of the subject matters which the ISA can decide not to search is provided in PCT Rule 39.1; information relating to the subject matters which will not be searched by a particular ISA can be found on the relevant page of the PCT Applicant's Guide, Annex D; however, for full details, it is preferable to contact the ISA concerned direct. It is recommended that before filing the International application, applicants inform themselves about which subject matters the ISA they intend to choose will not search. A declaration of non-establishment of an international search report (ISR) (Form PCT/ISA/203) can be made if the ISA considers that a meaningful search could not be carried out because the international application relates to a subject matter which, under the PCT Regulations, the ISA is not required to search and, in the particular case, decides not to search (see PCT Article 17(2) (a)). Note that a declaration of non-establishment of an ISR can also be made if the ISA considers:

- that the description, the claims, or the drawings do not comply with the prescribed requirements; or
- that a nucleotide and/or amino acid sequence listing
- and/or tables related thereto are not furnished in accordance with the prescribed standard and technical requirements or in an electronic form to such an extent that a meaningful search could not be carried out.