



AIPPI

Newsletter from AIPPI India Group

Recently, AIPPI India Group organized a conference on "*IP Dynamics in the Digital Era*" in Bengaluru on 09th January 2024. The conference was attended by industry leaders along-with Retd. High Court Judge and IP Practitioners from India and other jurisdictions.



IP DYNAMICS IN THE DIGITAL ERA

Opening Session



The opening session set the theme of the conference. The eminent Speakers were:

Retired Justice Mr. Manmohan Singh

Mr. Shoichi Okuyama (*President, AIPPI*)

Mr. Ralph Nack (*First Reporter General, AIPPI*)

Mr. Hemant Singh (*President, AIPPI India Group*)



Complex issues like content piracy by anonymous users, challenges surrounding IP protection and enforcement in AI-generated content, AIPPI position paper on AI and nuances of law were discussed.

Keynote Address

Retired Justice Manmohan Singh, highlighted the disposal of 51,000 cases by the Supreme Court of India in the past year that is 2023 and also the disposal by IPAB, the then tribunal (now abolished), to the tune of 800 cases including 200 patent cases during the pandemic times.



He further emphasized that organisations like AIPPI have played a huge role in the growth of IP laws across jurisdictions and made suggestions that assistance by technical experts and establishment of a culture of expedited injunction in Patent cases would lead to efficient IP enforcement system and would hugely contribute to growth in national economy.

Challenges in Protection & Enforcement of AI Generated Inventions/Patents



Moderator- Mr. Hemant Singh, *President, AIPPI (India Group)*

Mr. Patrick J. Coyne, *Partner, Finnegan*

Mr. Ralph Nack, *First Reporter General, AIPPI*

Dr. S. K. Murthy, *Director, IP, Intel Technology India Pvt. Ltd.*

Mr. Pravin Anand, *Managing Partner, Anand & Anand*

The Panellists examined the distinctions between AI and software/conventional computer programs, considering factors like autonomy, adaptability, and learning capabilities, with other thought-provoking questions.



There was unanimity among Panellists that AI-generated contents are patentable, while the human is the inventor. However, such patentability would involve challenges around the sufficiency of disclosures, and the legitimacy of data used including, whether such use constitutes fair use or infringement. The jurisprudence developing from the judicial pronouncements from the US Courts and EU regulations were also discussed.

Opportunities & Challenges- Microbiome Patents



Moderator- Dr. Malthi Lakshmikumaran, *Secretary, AIPPI (India Group)*

Dr. Jürgen Meier, *Partner, Vossius*

Dr. Vivek Kashyap, *Associate Director (Lead), Patents, Roche*

Mr. Hari Subramaniam, *Founding & Managing Partner- Subramaniam & Associates*

Dr. Markandeya Gorantla, *Managing Director, ATGC Biotech Private Limited*

The Panelists spoke about how the microbiome is changing the traditional ways of diagnosis and has now begun to be used for understanding the disease etiology. The Panel had a thought-provoking discussion on the challenges faced in patenting the biotech molecules or biotech innovations elucidating that discovering a microorganism that exists in nature does not make a microorganism eligible for patent protection including new properties of such microorganism.



The Panel further discussed the Indian Patents (Amendment) Act, 2002, under which one could patent a microorganism in case there is a clear showing that there is a human intervention that changed the nature of the micro-organism or the microbiome to attribute to the new property which was unknown and not inherent to it.

Protection & Enforcement of Trade Marks in relation to Metaverse, NFTs & Gaming Platforms



Moderator- Ms. Lakshika Joshi, *AVP- Legal and Global IP Head Capgemini Engineering*

Ms. Jyothi VK, *General Counsel & Sr. VP (Legal), Aditya Birla Fashion and Retail Limited*

Mr. Shoichi Okuyama, *President, AIPPI*

Ms. Dhvani Rao, *Head IP Legal Counsel, Nestle India Limited*

Mr. Sameer Chugh, *General Counsel & Chief Legal Officer, Play Games24x7 Pvt. Ltd.*

Mr. Paul Kretschmar, *Partner, Trade Marks, Vossius*

The Panelists shared their views on exciting opportunities in the digital era of metaverse. The industry leaders like NIKE, LOUISE VUITON , NESTLE, GUCCI etc. are already exploiting the opportunity to increase consumer engagement and monetize their brands through Metaverse.



The IP protection and enforcement in Metaverse requires a quantum leap from the traditional system, including the technical enhancement to exploit the opportunity to its optimum.

AI Generated Content: Challenges to Copyright Law



Moderator- Mr. Neel Mason, *Vice-President, AIPPI (India Group)*

Prof. Dr. Jan Bernd Nordemann, *Partner, Nordemann*

Ms. Lohita Sujith, *Sr. Director - Copyright & Digital Economy, Motion Picture Association*

Mr. Jay Maroli, *Senior Counsel and Privacy Officer, GE Global Research Centre*

Mr. Jenil Shah, *Head Legal, Indian Music Industry*

Mr. Manoj Menda, *IP Attorney*

The Panellists shared views on whether existing copyright structures adequately address the challenges posed by AI-generated content or if a *sui generis* system should be considered for more effective regulation and protection. The panellists acknowledged the need of the hour as the creation of an “AI safety net” that safeguards the original works, either within or outside of the existing copyright structure. The Panellists discussed the complexities of authorship and ownership concerning AI-generated works, with insights from the EU and the Indian perspective.



The panel spoke about the importance of understanding and sharing the source of the data that was used to train the AI. Disclosure as to the source of data was considered as a pivotal aspect, across the panel and the interplay between personality rights, the media and the entertainment industry in the context of AI-generated works was also explored. Considerations included distinctions between living and deceased individuals, along with moral rights implications.

Digital Personal Data Protection Act- Impact on IP enabled businesses



Moderator- Ms. Mamta R. Jha, *Senior Partner & Head- Litigation, Inttl Advocare*

Ms. Lakshika Joshi, *AVP- Legal and Global IP Head Capgemini Engineering*

Ms. Nirupama Jayasimha, *Senior Counsel, Google Pay*

Mr. Pranav Narain, *Legal Counsel, Sahamati*

The Panel discussion opened with an overview to the audience of the Digital Personal Data Protection Act, 2023 (DPDP) of India, which is largely based on The General Data Protection Regulation (GDPR) of EU, with a few components borrowed from the Data Protection law of Singapore.



The panel addressed the challenges posed by India's consent-centric law and the narrower scope of “*legitimate data usage*” categories, with the view that in the current fast-paced digital era, a narrow interpretation for “*legitimate use*” may not match the pace of growth and thus requires a more liberal interpretation.

Closing Remarks

The conference concluded with closing remarks from Mr. D. Caleb Gabriel, Treasurer, AIPPI India Group, and a vote of thanks by Ms. Bitika Sharma, Executive Member, AIPPI India Group.



☀️ The conference drew an impressive and diverse crowd, showcasing a substantial turnout that underscored the event's significance, impact and success! ☀️