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NATIONAL EXECUTIVE BOARD

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Kolkata. The seminar focused on Urban and Rural Healthcare, Emergency Care and the role of Insurance, Innovation and Technology in promoting general healthcare systems.

In keeping with the increased emphasis by the U.S. Government for promoting U.S. exports that help generate employment and also meet developmental aspirations of the receiving country, Mr. Fred P Hochberg, Chairman, Exim Bank met with Amcham members at Hyderabad and presented plans and opportunities for financing that industry could avail under such programs from the EXIM bank.

With a view to highlight direct and indirect tax issues, members of the Tax and Tariff committee had a meeting with Mr. R.S Gujral, Finance Secretary, where amongst other things, Amcham's pre-budget memorandum was presented. A delegation of members of our tax and tariff committee had a meeting with Mr. P.K Chaudhery, Secretary, Department of Industrial Policy and Promotion, (DIPP) in his office. Members' recommendations were presented to Mr. Chaudhery and he welcomed our initiative.

Intellectual Property is the foundation of knowledge-based economy.

Globalization and the rapid proliferation of technology have elevated the importance of intellectual property protection. In the contemporary world, mere possession of land, labour and capital are just not enough for a country to succeed. Creativity and innovation are the key new drivers of the world economy. Thus tapping the trapped intellectual capital is a major area of focus in any countries plan and program. The intellectual property system is a dynamic tool for wealth creation providing an incentive for enterprises and individuals to create and innovate. It pervades all sectors of economy and thus it is increasingly becoming important for ensuring competitiveness of the enterprises. The intangible nature of intellectual property and the worldwide inconsistency of standard practices create challenges for those businesses wishing to protect their inventions, brands, and business methods in foreign markets. Without a strong IPR regime and marketing mechanism, our inventors cannot receive appropriate recognition and compensation for their work. Even with this framework the task will not be easy or foolproof.

Stronger Intellectual Property Rights is Good For Indian Economy



Tabrez Ahmad

Chair, Amcham IPR Committee
& Director IP Policy, Microsoft Corporation
(India)

Background:

Asia is going to be the growth engine for the world economic order during the first quarter of the 21st century. We see the developed world in the midst of an economic turmoil today. Statistics reveal

that several Asian countries have registered higher GDP growth year after year in the recent past. The emerging Asian markets led by India and China are going to command the world economy of the future.

The Indian entrepreneurs can vision future, set targets and aspire to achieve successfully the goals set by them both through their adaptations to change and hunger for success. Investment in education, with a growing passion to succeed by an average Indian is unmatched today resulting in the creation of a large and talented pool of workers. But one challenge that continues to be faced by India like by several Asian emerging economies is an imperfect environment for the protection of intellectual property rights including copyright, trademark, design and patent.

It is often believed that the problem is cultural as we in India lack respect for others IP and, therefore, indulge in counterfeiting and piracy. For example, given an option people in general are lured to buy computers with non-genuine software, there by putting themselves at several risks. But this situation is only partially true and is fast changing in India. According to the study of Business Software Alliance (BSA), the value of pirated software has more than doubled during the last five years, from US\$1.27 billion to US\$2.73 billion, but there has been a noticeable drop by 10 percentage points in piracy of software from 74% in 2004 to 64% by 2010, giving clear indication of the change that we are going to see in terms of the usage of genuine software by the current generation.

Loss to Economy and Society:

The phenomenon of counterfeiting and piracy is viewed uniformly world over as one of the most destructive issues facing both domestic and global businesses that is hampering investments, discouraging effort on IP creation, negating the actualization of benefits from public-private R&D funding and risking consumers well-being. Today counterfeiters and pirates are operating skillfully in producing fake goods right from foodstuffs, pharmaceutical products, cosmetics, electronic and electrical products, toys, even software and all forms of imaginable goods. Asia which is doing the balancing act for the world economic growth has emerged as front runner and the largest source for counterfeit and pirated products. Counterfeiting and piracy are not only detrimental to innovation, affecting job

creation, growth of knowledge economy and competitiveness. High profit margins from counterfeiting and piracy have become an invitation to entry of organized crime and terror in businesses which eventually results in revenue loss to the government and serious law and order issue to society.

US States Prohibit Usage of "Illegal IT" in Manufacturing:

IP Infringements are not only a concern for the domestic eco-system but it can have international ramifications as well and there is a paradigm shift towards treating piracy and counterfeiting as creating "unfair competition" in international trade. Interestingly, two US states, Washington and Louisiana recently passed 'Unfair Competition Act' that prohibit any non-compliant manufacturers exporting products to their state for sale, directly or indirectly, if they cannot prove that they use only genuine and licensed software and hardware in business operations. To promote fair competition only impacted manufacturer can "sue" non-compliant manufacturers. IT owners can collect evidence of usage of "illegal IT", serve a legal notice to the non-compliant manufacturers and guide them through corrective measures incl. adoption of the best practices of ISO Standard-Software Asset Management and BSA's CSS(O) SAM Certification (www.bsa.org/csso). What started in two US states is becoming an avalanche as on

4th November, 2011, Attorney Generals of 36 US States and 3 US territories passed a strong resolution through a jointly signed letter advising the Federal Trade Commission (FTC) and Bureau of Competition to consider enforcement of Federal Trade Commission Act to bear on the menace of IT theft at Federal level and have uniform enforceability across all the US States (to view <http://www.naag.org/attorneys-general-advocate-for-stronger-enforcement-of-the-federal-trade-commission-act.php>). The Unfair Competition Act aims to create level playing field, deny market access to non-complaint manufacturers, promote respect for IP, incentivise compliant organizations to focus on innovation and develop competitiveness.

Conclusion:

To make legal instruments like the Copyright Act, 1957, the Trade Marks Act, 1999, etc, more effective, administrative cooperation at all levels is necessary. Inter-industry dialogues through industry associations could be a productive tool for the quality data collection, proper analysis and solution to counter the problems. Public-private cooperation can be a useful method to improve enforcement through public awareness campaigns that highlight the dangers of counterfeit and pirated goods and their harmful effects and the consequently damage to the national economy. ■

Counterfeiting and Piracy- A Global Menace



Sanjit Kaur Batra

Intellectual Property Rights Specialist, U.S. Embassy

Intellectual Property (IP) is intangible property that is created by the human intellect and it includes patents, trade

marks, copyrights, industrial design, geographical indications and trade secrets. In this era of 'knowledge