Shaping India’s Future IP Regime

The International Trademark Association has its sights set on growing its membership in India. Gregory Glass learned more about what INTA leadership has in mind earlier this year at the Annual Meeting in Barcelona.

Gauri Kumar, the International Trademark Association’s India Consultant since 2015, is on a mission: To elevate the role of INTA in the continued evolution of India’s trademark regime.

While she spends a significant amount of her time meeting with high-level government officials — more on that later — Kumar is largely focussed on building INTA membership outside India’s government and commercial centres. “It’s a very lopsided ratio where our members come from,” Kumar says. “It’s Delhi, then Mumbai, then everywhere else. We especially want to increase membership from the ‘everywhere else.’”

INTA has had a presence in India for more than a decade. From her office in the Delhi suburb of Gurgaon, Kumar leads INTA’s advocacy efforts to promote and develop intellectual property throughout the quickly-developing country.

India’s National IPR Policy was approved by the cabinet in May 2016; the Make in India initiative was launched by Prime Minister Narendra Modi in September 2014. Both are part of a series of initiatives by the government to modernize government and business entities alike. Other such initiatives include programmes aimed at start-up ventures and entrepreneurship, improving the skills of India’s workers and making government services available electronically.

One cause for Kumar’s optimism is that government agencies seem to be truly invested in promoting the government’s initiatives generally and in protecting intellectual property specifically. In the past, India’s government agencies — and the civil servants who staff them — have often lagged behind their peers in industry, and in governments outside India.

“Staff at the Department of Industrial Policy & Promotion (DIPP) and the Cell for IPR Promotion and Management (CIPAM), from the leadership down, have been very enthusiastic about fulfilling the vision of the National IPR Policy,” Kumar said. “We’ve never seen this happen before.”

Kumar says that in the past, a few corporations have usually taken the lead in bilateral discussions with the government about intellectual property. Now, she says, government agencies like CIPAM are taking the lead in promoting an India-wide improvement in intellectual property awareness and protection.

Because of government efforts, she says, the importance of protecting intellectual property has filtered down throughout all levels of government and industry: “The police, Customs, and the judiciary are increasingly more knowledgeable about this issue, know, and IP owners are increasingly aware of how valuable their intellectual property is. An important next step is to expand our audience beyond the IP community and legal profession to the general public,” Kumar said.

INTA has been an important partner in improving awareness about intellectual property in India. In 2016, the association partnered with DIPP and CIPAM on a collaborative project aimed at educating children in India on intellectual property...
rights. To give effect to the project, INTA put together a working group that, based on further discussions with DIPP and CIPAM, submitted a proposal for cooperation of the agencies to offer its support towards the fulfillment of Objective 1 of the National IPR Policy, IPR Awareness: Outreach and Promotion. On November 4, 2016, DIPP, CIPAM and INTA’s formalized the project through a memorandum. Kumar says this is the first initiative of its kind for the association and that the collaboration fits in extremely well with the National IPR Policy.

The collaborative effort kicked off on April 25, 2017, in New Delhi, and has already had about a dozen presentations in Delhi-area schools. Kumar says the programme material will be translated into other regional languages and taken on the road around the country.

“There is an extremely active group of young people working at CIPAM – the median age I think is 24 – and they are very enthusiastic about working with kids around India,” Kumar says. “It should be a very successful programme. One of the government’s top priorities is to improve the country’s intellectual property regime, and educating future generations is a key element.”

But saying that improving the IP regime is a top priority is one thing; making it happen is another. “The government’s desire to improve the intellectual property landscape in India gives INTA a great opportunity for ongoing initiatives with them,” she says. Kumar plays a key role in keeping those initiatives running. She is in frequent and regular contact with CIPAM, DIPP, and the Office of the Controller General of Patents, Designs & Trade Marks.

The ongoing initiatives between INTA and the government of India provide INTA members in India – and elsewhere – nearly endless opportunities to get involved in the association, and to help play a meaningful role in shaping the future of intellectual property protection in India.

INTA has made significant inroads into India’s private practice lawyers – nearly all of India’s largest law firms are members of the association, as are many of the small- and mid-size firms. At the same time, the association is focused on signing up corporations. Kumar hopes that the opportunity for INTA members to contribute to the evolution of intellectual property in India, to influence public policy and advocacy developments within the global trademark community, and to gain access to INTA’s myriad educational and legal resources, will attract corporate members.

“It can be challenging for in-house counsel to justify association membership,” she told Asia IP. “It’s true in many places, but in India in particular, a company’s legal department is seen primarily as a cost centre, and managers often don’t think of spending their budgets on things like education and association memberships. To many of them, the budget is simply something you spend on outside counsel.”

Kumar is optimistic, though, that that will change as India’s government, and, in turn, corporate leaders, continue to appreciate and understand the value of protecting intellectual property.

“Companies are becoming more and more aware of the importance of protecting their IP,” Kumar says. “The government is really encouraging brand owners to come forward and participate in the IP economy through initiatives like Make in India and the country’s national IPR policy.”

“The police, customs officials and CIPAM all want more corporates on board, and we want to be able to extend INTA’s collaborations with government agencies to collaborations with companies in India, too,” she said. “It’s happening, but slowly.”

To encourage corporations worldwide to join, INTA has created an umbrella affiliate structure, where one office will join the association at full price, and other offices can come aboard at a discounted rate. Kumar says that already, many India-based subsidiaries have joined the association, a sign that the umbrella affiliate structure is working.

“India is a very important country, not just in the region, but also globally,” she says. “Its economic prowess is growing by leaps and bounds, and it’s going to overtake some of the world’s major economies in the coming years.”
India’s growing economy might contribute greatly to the association’s drive to increase its footprint in India specifically and South Asia generally.

“This is a part of the world that desperately needs more education about intellectual property,” Kumar says. “Corporations simply don’t have the resources to educate their staff members about the importance of protecting their employer’s resources and at the same time, advocate with policy makers on critical IP matters. Those are just a few of the key benefits INTA provides its members. While some legal departments are ahead of the curve and have joined the association and have been educating their colleagues as well as advocating through us, many more aren’t. The IP community needs to reach that critical mass.”

By contrast, Kumar says, in many Western nations, joining an association that will both educate you on how to protect your intellectual assets and, at the same time, advocate on your behalf is “almost automatic.”

But corporate teams are quickly evolving, she says, noting that while it may have been uncommon to have trademark-savvy staff members in the recent past, most medium- and large-sized companies in India have at least one person with trademark expertise on staff.

“A decade or two ago, there were very few in-house legal teams in Indian corporations, much less any with IP experience,” she says. “But India is quickly evolving in this regard. It is just a matter of time.”

As for INTA itself, Kumar sees the association perfectly situated to be a partner in the ongoing evolution.

“We have been involved in almost everything in the trademark landscape in India,” she says, noting that INTA met regularly with the Controller General and was heavily invested in providing comments on the country’s new trademark rules since they were released in draft form.

“We were told that government officials were impressed with the quality of our comments, and when the rules came out in March, we saw that many of our comments had been incorporated into the final version,” she says. “Regular, high-level interaction between the association and the government of India has made a huge difference.”

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