

# Indian Patent Cases, Patentability Requirements, Patent Litigation, Interesting patents, Patent Licensing, Patent Tips and more

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Indian Patent Cases, Patentability Requirements, Patent Litigation, Interesting patents, Patent Licensing, Patent Tips and more, presented by the Patent attorneys and experts of BananaIP Counsels, India's Premier New Age IP Firm.

## Patent Quote of the Week

*"A Patent is not a license to make money, it is a license to prevent others from making money."*

– *Dr. Kalyan C. Kankanala, [IP Attorney](#), [Author and Professor](#).*

## Patent stats from the Indian Patent Office (27th March 2017 to 3<sup>rd</sup> April 2017)

Activity at Patent office has marginally increased as compared

to the previous week. Between 27<sup>th</sup> March to 3<sup>rd</sup> April 2017, 840 applications have been published which marks a 13.92% increase from the number of applications published the week before. In a seemingly usual trend, the Delhi Patent office has the highest number of grants published, subsequently followed by Chennai, Kolkata and Mumbai.

### Early Publications

City	This Week	Previous Week	Percentage of change
Delhi	11	20	45% decrease
Mumbai	8	35	77.14% decrease
Chennai	16	18	11.11% decrease
Kolkata	1	10	90% decrease
Total	36	83	56.62% decrease

### PUBLICATIONS

City	This Week	Previous Week	Percentage of change
Delhi	487	384	21.14% increase
Mumbai	165	94	43.03% increase
Chennai	130	132	1.51% decrease
Kolkata	22	30	26.66% decrease
Total	804	640	20.39% increase

TOTAL PUBLICATIONS (Previous Week): 723

TOTAL PUBLICATIONS (This Week): 840

Percentage: 13.92% increase

### PUBLICATIONS UNDER GRANT

<b>City</b>	<b>This Week</b>	<b>Previous Week</b>	<b>Percentage of change</b>
<b>Delhi</b>	157	151	3.82% increase
<b>Mumbai</b>	32	26	18.75% increase
<b>Chennai</b>	92	66	28.26% increase
<b>Kolkata</b>	63	61	3.17% increase
<b>Total</b>	<b>344</b>	<b>304</b>	<b>11.62% increase</b>

**Number of Applications published based on applicant city:  
27<sup>th</sup> March to 3rd April 2017**

Mumbai, Delhi, Bangalore, Hyderabad, Chennai and Kolkata have collectively contributed to 15.95% of the total number of applications published this week. A maximum contribution of 68 applications comes from Mumbai. Hyderabad too has performed well this week, it has moved from the lower end of the table to the third position to tie with Bengaluru.

- Mumbai: 68
- Delhi: 20
- Bangalore: 16
- Hyderabad: 16
- Chennai: 11
- Kolkata: 3

**DESIGNS**

This Week: 284

Previous Week: 239

Percentage of Increase in Registrations: 15.84% increase

**Recent Indian Patent Cases**

**Monsanto v. Nuziveedu – Patent Holder's**

## **Termination of License is not Valid**

In *Monsanto v. Nuziveedu Seeds*, the Delhi High Court held that Monsanto's termination of its license with Nuziveedu for breach of contract is not valid as Nuziveedu did not breach the contract. The Court stated that non-payment of trade value by the licensee is not a breach because the Price Control Order and License Guidelines of the Government, which define specific license fee and provisions form part of the license between the parties, and the license stands modified to bring it in compliance with the Government order and guidelines. After reading the regulations into the license, the Delhi High Court came to the conclusion that the license has not been breached, therefore valid, making Nuziveedu's use of Monsanto's patents and trade marks non-infringing. An analysis of this case will be published on Intellopedia shortly.

## **Patentability Requirements**

### **Prior Art Modification is not permissible for Anticipation**

In '*In re Chudik*,' the US Federal Circuit held that modification or changing a prior art is not permissible for assessing anticipation of an invention. While dealing with an invention relating to a Glenoid Implant, the Federal Circuit reversed the PTAB's decision to remove an element from one prior art, and modify another prior art to come to the conclusion that the invention lacked novelty. In line with well established jurisprudence, anticipation continues to be a mathematical determination.

### **It is an Abstract Idea; Not Patentable Subject Matter**

In *Icon v. Polar*, a District Court in Utah held a patent relating to a method and system for collecting data from subjects, evaluating the same and providing feedback to be

ineligible subject matter. As per the patent in question, the feedback could be in the form of inputs to teachers about interest of students, to musicians about excitement levels of audience, etc. The system collects data from people using conventional technology, processes the same and provides notifications. The District Court held that the invention is an abstract idea well known to the public, and pointed out that use of sensors, uniquely distributed databases, and computers do not transform the said abstract idea into a patentable invention. This is more or less the approach Indian Patent Office takes these days.

## **Patent Litigation**

### **Biogen scores a win at PTAB for its multiple sclerosis drug, Tecfidera**

In an interference proceeding before the US Patent and Trade Mark Appellate Board (PTAB) with respect to Biogen's best selling multiple sclerosis drug, Tecfidera, the PTAB held Forward Pharma's patents to be invalid based on inadequacy of written description. Biogen and Forward Pharma recently entered into a license agreement with a non-refundable, lumpsum royalty of 1.25 billion dollars, and the success of this proceeding will define the nature of license and the running royalty payable by Forward Pharma. If Forward Pharma fails on appeal, the license will be a co-exclusive one with a one percent royalty rate, and if it succeeds, the license will be an exclusive one with a ten percent royalty rate.

### **Uniloc sues Google and Amazon**

IP Watch Dog has reported that Uniloc has filed patent suits against Google and Amazon in the District Court of Eastern District of Texas. Uniloc is alleging that Google's Allo App infringes its patents relating to instant voice messaging. The complaint against Amazon's Chime alleges infringement of its voice conferencing patents. With these suits, Uniloc's patent

suits have risen to 49, one short of half a century.

## **Patent Licensing**

### **High Efficiency Video Coding Patent License Platform Launched**

Velos Media has launched a platform to license High Efficiency Video Coding (HEVC) patents held by companies like Ericsson, Qualcomm, and Sony. HEVC technology enables faster downloading, video viewing at low bandwidths and reduces buffering issues. The Standard Essential Patents relating to HEVC will be available on the platform on FRAND (Fair, Reasonable and Non-Discriminatory) terms.

## **Software for Patent Professionals**

### **Citation Eagle for Opposition and Infringement Watch**

Practice Insight has launched a software called 'Citation Eagle' for providing potential Opposition and infringement alerts and updates. The software filters patent data from around ninety countries and provides opposition/infringement analytics in simple language. The software will be helpful for attorneys to watch and monitor patent risks and tackle them at the right time.

## **Interesting Patents**

### **Apple's Patent for Driver Safety**

Apple recently received a US Patent, which tracks if a person is driving or not based on motion of his wearable devices, and changes the mobile device settings to enhance safety. The invention will track gravity and velocity to arrive if the person is in a moving vehicle, and if she is driving. The invention uses existing sensors in wearable devices, and needs

no additional hardware. Thousands of accidents occur every year due to distracted drivers, and removal of mobile distraction when implemented will be a welcome step for Apple device users. this is implemented.

## **Samsung patents secondary dial display on smart watch**

The patent, with application no. 15/073,474 titled "Display Device and Smart Watch" describes a wearable with two displays. It discloses an additional circular screen squeezed in to the outside edge of the bezel of the watch. The additional display would provide "simple information, such as a current date, a current weather, a song currently being played etc". This will also help in conserving battery when the main face of the watch is off.

However, a patent does not promise the product release, let's hope that these inventions will succeed to impress the design world.

## **BananaIP's Patent Tip of the Week**

### **Building a Competitive Patent Portfolio**

Building a strong and competitive patent portfolio requires vision, commitment and tons of hard work. A patent portfolio that can provide business and competitive advantage does not emerge out of the blues, it needs careful planning, dedicated implementation, and tough decisions. Commitment from the senior management to the cause will make a big difference to the patent attorney's efforts.

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