



Contribution of *Journal of Intellectual Property Rights (JIPR)* in IPR Research: A View through the Articles Published in the First Decade of Twenty-First Century (2000–2004) — II

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This Paper seeks to review the articles published in the *Journal of Intellectual Property Rights (JIPR)* in the first half of the first decade of the twenty-first century from Volume 5 (1) (2000) to Volume 9 (6) (2004). During this period, a total of seven post-independent IP legislations were enacted in the country. This Paper reviews the articles published in *JIPR* year-wise. Paper attempts to identify: (i) total number of issues published; (ii) total number of articles published; (iii) total number of contributions made by the Indian and foreign scholars; (iv) total number of sole and joint publications; (v) publishing style of *JIPR*; and (vi) area of IP covered in each volume. Dissemination of information is a necessary condition for creation of new knowledge. *JIPR* through an open-access platform has provided an opportunity to the IP scholars to publish their writings addressing the gaps in the areas of IP. In the end, Paper develops an argument that *JIPR* has significantly contributed in the development of IP by disseminating IP information and knowledge and also in creating IP knowledge and awareness.

Keywords: *JIPR*, IP Statutes, CSIR-NIScPR, CSIR-NISCAIR, IP Awareness, Articles, Copyright, Patents, Trade Marks, Geographical Indications, Trade Secrets, Industrial Design, Design, Integrated Circuit, Plant Varieties, TRIPS, WIPO, GATT, Treaties, Agreement, TKDL, Research, Development, Review, IP Publications, *Publici Juris*, Dissemination of Knowledge, Creation of New Knowledge, First Decade, 21st Century

This Paper is in continuation to the Paper ‘Contribution of *Journal of Intellectual Property Rights (JIPR)* in IPR Research: A View through the Articles Published in the Last Decade of Twentieth-Century — I (1996–1999)’¹ (First Paper). This Paper seeks to review the articles published in the *Journal of Intellectual Property Rights (JIPR)* in the first half of the first decade of the twenty-first century (2000–2004). Paper proceeds on the same method and arguments as adopted and developed in the First Paper.

A total of one hundred and thirty-two (132) articles were published in *JIPR* during this period. Most number of articles published in a volume is thirty-two (32) in Volume 7 (2002) and the lowest is twenty-three (23) published in Volume 5 (2000) and Volume 8 (2003). *JIPR* in this decade has also reprinted several articles with permission in its issues. These publications can be identified with the asteriskmark (*) after the title of the article.

Articles in *JIPR*: First Decade of the Twenty-first Century (2000–2004)

During the first half of the first decade, a total of 132 articles in 24 Issues of 5 Volumes were published in *JIPR*, with 23 articles in Volume 5 (2000), 28 articles in Volume 6 (2001), 32 articles in Volume 7 (2002), 23 articles in Volume 8 (2003), and 26 articles in Volume 9 (2004).

JIPR in the Year 2000

A total of 23 articles including 2 papers presented in the WIPO Asia-specific Regional Forum were published in total 6 Issues of Volume 5 of *JIPR*. Total number of Indian contributors to this Volume are 15 which include 4 articles by V K Gupta, 3 articles by MMS Karki and 2 articles by P K Vasudeva.

3 articles were joint publications and 20 articles were published under single author name. No article by any Indian author in co-authorship with the foreign author was published in this Volume.

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A total of 4 foreign authors, namely: Dato' APahamin from Malaysia, Craze Denis from Geneva, Henry Olsson from Sweden and S Tiwari from Singapore contributed their articles in this Volume.

*'Patent Literature on Catalysts for Olefin Polymerization: [III] Metallocenes'*² is the first article from this decade and it has discussed the related literature from the past 40 years and the patent controversies in the metallocene catalysts. Article has also explored the R&D intensity in the field by using statistical analysis technique.

*'Information for Filing International Applications for Patent Under Patent Cooperation Treaty by Indian Applicants'*³ has discussed the necessary information required for filing international applications for patent under the PCT by Indian applicants. Article has also discussed the merits of PCT permits.

*'The Protection and Management of Intellectual Property in a Digital Environment'*⁴ is a paper presented in the WIPO Asia-Specific Regional Forum on IP Policy Issues in the Next Millenium. This paper has discussed the protection and management of IP in the era of digital technology in Malaysian context. It has further discussed how the Malaysian government is addressing the IP issues.

*'Negotiating IPR during International Cooperation in Science and Technology'*⁵ has examined the critical features of negotiating IPR while handling R&D collaborative projects with other countries.

*'Project and Patent Planning'*⁶ has discussed the planning of R&D projects. Article also suggests the time when patent of addition and other patents on the same project could be filed to cover all the aspects of project.

*'Biodiversity and IPR'*⁷ has discussed the two different approaches of TRIPS and CBD in addition to discussing the biodiversity and its importance and mega-biodiversity countries. Article has also highlighted the recommendations of Inter-sessional Meeting of the Conference of Parties to the CBD to develop a common appreciation of the relationship between IPR and relevant provisions of TRIPS and CBD.

*'India and Other Asian Countries Losing on Biodiversity'*⁸ has discussed how the Geographical Indications Bill will help in protecting the Indian biodiversity from piracy. Further, article has stressed on the need for the electronic form of records. It has provided a detailed list of bio-pirated plants and highlighted the problem of bio-piracy.

*'Intellectual Property as a Tool for Development in the Knowledge - based Economy'*⁹ is a paper presented in the WIPO Asia-Specific Regional Forum on IP Policy Issues in the Next Millenium. Paper has argued for inclusion of IPRs and its protection in the national economic agenda of the developing countries, forming an integral part of their economic, S&T, and educational policies.

*'Exclusive Marketing Rights – Background and Their Implications'*¹⁰ has discussed the background of the TRIPS Agreement, salient features of The Patents (Amendment) Act, 1999,¹¹ and the implications of the exclusive marketing rights.

*'Interpreting Claims in a Patent Specification'*¹² has presented a case to offer a general guideline to interpret the claims at various stages of a patent document.

*'Protection of Well-Known Marks'*¹³ has discussed the provisions relating to protection of well-known marks as contained in The Paris Convention for the Protection of Industrial Property, TRIPS Agreement, and The WIPO Joint Recommendation Concerning Provisions on the Protection of Well-known Marks.

*'Intellectual Property Asset Management — A Tool for Total Quality Management'*¹⁴ has presented an approach for the companies to exploit the IP assets to the full extent possible.

*'Patents for Cloning Embryos'*¹⁵ has discussed the patents for cloning embryos and India's case on biotechnology.

*'Biodiversity and IPR- Ethics and Politics'*¹⁶ has highlighted the bio-colonialism of the bio-resources due to rapid commercialization of agriculture with the advent of biotechnology and has argued for the critical review of the new technologies.

*'Natural Product Innovations: Taxol'*¹⁷ has made an attempt to identify the current status of research efforts and potential commercial use in the area of Taxol.

*'Employer v Employee Inventions: IPR Issues in R&D Organizations'*¹⁸ has examined the salient features of the laws in different jurisdictions relating to employee inventions. It has stressed on balancing the interests of the employer and ex-employee in keeping information confidential by ex-employees and keeping of records.

*'Protection of Plant Varieties and Farmers' Rights Bill, 1999: Some Critical Issues'*¹⁹ has discussed some critical issues related to the Bill and its implications.

*'IPR Issues Associated with Internet Domain Names'*²⁰ has discussed the interface between domain

names and trademarks and has also discussed the efforts of ICANN and WIPO in this regard.

*'Electronic Commerce and Intellectual Property Developments in Europe'*²¹ has discussed the legal situation and the problems faced by the electronic commerce field in Europe.

*'The WIPO Internet Treaties, Facing the Challenges of the Digital Economy'*²² has examined the important parallel provisions of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

*'An Approach for Establishing a Traditional Knowledge Digital Library'*²³ has attempted to justify the need for setting up of a national TKDL utilizing it as a proof of the "prior art" by the examiners of patent offices, nationally and internationally.

*'An Introduction to Business Method Patents'*²⁴ has discussed the issues involved in State Street Bank v Signature Financial Group, Inc.

*'Technology Trends in Biosensors as Reflected by Patent Analysis'*²⁵ analyzed the patents in the area of biosensors to identify the technological opportunities in the field of biosensors.

In this Volume, 9 articles have covered the areas of patent; 1 article on WIPO Internet Treaty; 3 articles on biodiversity; 1 article each on traditional knowledge digital library, well-known marks, plant varieties and internet domain; and 6 articles on IPR generally. No article in this Issue covered the areas of copyright or particularly the Indian IP regime.

JIPR in the Year 2001

A total of 28 articles including 2 reprinted articles including 1 newsletter, 1 article published in Journal of the Association of the University Technology Managers and 1 from Patent World, 1 paper presented in regional forum and 1 in a symposium, 1 updated part of 16th Dr C D Deshmukh Memorial Lecture, 1 updated lecture delivered at the National Science Congress taken from www.pharmabiz.com, were published in total 6 Issues of Volume 6 of JIPR. A total of 9 foreign authors, namely: Benoît Muller from Switzerland; Steven C Price and Bryan ZRenk from Wisconsin; Mike A dcock and Margaret Llewelyn from UK; SrividhyaRagavan from Washington; Paul Haycock from New York; and William Gardner and Joseph Rosen Baum from USA, contributed their articles in this Volume. Total number of Indian contributors to this Volume is 25. 8 articles were joint publications and 20 articles were published under single author name. No article in co-

authorship with the foreign author was published in this volume.

Name of the country of the foreign author named Haycock Paul is not mentioned in his article. Same is the case with William Gardner and Joseph Rosenbaum. Their countries were identified after researching about their institution affiliation mentioned in the article. *'IPR and Seed Industry'* is the first article published in JIPR with four authors: Syamal Krishna Ghosh, K Virupakshappa, M Shyam sunder Singh and A R Sadananda. *'Molecular Markers for Cultivar Identification and PBR'* is the first article published in JIPR with three authors: Syamal Krishna Ghosh, Chitore Kr Guha Sarkar and Subhojit Datta.

*'IPR Issues in Biotechnology in the Context of Developing Countries and India'*²⁶ has discussed the need for amending The Indian Patents Act as also enacting provisions for the protection of plant varieties, besides ensuring the protection of biological goods linked with geographical indications.

*'Copyright on the Internet'*²⁷ is a reproduced article printed in IASP Newsletter. Article has given an outline of basic principles of copyright and legal aspects of the dissemination of works in the digital environment. Article has also discussed the problems arising from different uses of literary work on the Internet.

*'Neem-based Natural Product Innovations: Analysis of Patents'*²⁸ has analysed the neem-related patents and identified the current status of research efforts and potential commercial uses of various neem products.

*'Intellectual Property Management for Enhancing Competitiveness Particularly in Small and Medium Enterprises'*²⁹ is a paper presented in the WIPO Asia-specific Forum on IP. It has emphasized the need for enhancing competitiveness, particularly, in SMEs through effective use of IP management system. Article has also recommended some salient points for strengthening and promoting the IP system by governments and the private sector particularly SMEs and their national associations.

*'The Scope of Reverse Engineering of Computer Software under the Copyright (Amendment) Act, 1999: A Critique'*³⁰ has examined the scope of reverse engineering of computer software under the recent amendment to the Copyright Act.

*'IPR and Seed Industry'*³¹ has discussed the Plant Breeders' Right, TRIPS Agreement, UPOV

Convention and The Indian Plant Variety Act, and has argued that revised IPR situation may give boost to the scientific community, seed companies and put India in a respectable position in the global business arena as well as encourage inventions to make the Indian scientists competitive.

*Report of the Task Force on Traditional Knowledge Digital Library: A Gist*³² has discussed the report of the Department of Indian Systems of Medicine and Homeopathy on establishing a Traditional Knowledge Digital Library (TKDL).

*Inventing and Patenting on Lasers – An Overview*³³ has reviewed the worldwide inventing activities on lasers and numerous applications of this technology.

*Servitudes of Intangible Properties*³⁴ has discussed the overlapping of rights of owners over the domains confining the conflicting domain names issues. It has further argued that intangible rights in the “Internet” cannot be regulated by applying the same principles laid out in management of other IPRs.

*Patent System: Implications for Health Care and Pharma Industry*³⁵ has discussed the merits, demerits of the TRIPS Agreement and its implications for healthcare and pharma industry. Article has also listed some critical issues and proposed for amendments in The Patents Act, 1970.

*Intellectual Property Transfer Mechanisms at Universities*³⁶ is a reprint of the article published in *Journal of the Association of University Technology Managers*. Article has discussed two complementary technology transfer systems for plant IP.

*Intellectual Property: Policy and Strategy for 21st Century*³⁷ has emphasizes on the concerns for developing world on IPR and the problems of the existing IPRs system by highlighting the problems of biopiracy and its remedial measures.

*Tamarind - based Innovations: Analysis of Patents*³⁸ is a survey study of the tamarind-based innovations as reflected in the United States Patent and Trademark Office and European Patent Office.

*Role of IPR in Economics of Knowledge*³⁹ is an updated part of the 16th Dr C D Deshmukh Memorial Lecture. It has focussed on: (i) India’s inadequate IP infrastructure, poor IP awareness among public, delay in implementing IP policies, and (ii) incorporating strong systems on generation of IPRs, its capture, documentation, valuation, protection and exploitation.

*Managing Software Protection*⁴⁰ has argued for the need of a strategy for software protection with regard

to software patenting, copyright, and trade secrets.

*Functional Foods – The IPR Angle*⁴¹ has discussed the issues relating to functional food in relation to IPRs from various angles.

*A Possible Indian Response to Software and Business Method Patenting*⁴² has suggested for a jury system in patent office and courts and argued for jury and harmonized examination systems to be a part of the new negotiations at TRIPS.

*Implications of WTO on Agriculture*⁴³ has discussed the Agreement on Agriculture (AoA) and has proposed to make AoA to make it fair and non-discriminatory. Article has also argued that the three bills with the Joint Members of Parliament, namely: The Indian Patents Act, 1970 (Second Amendment) Bill 1999, The Protection of Plant Varieties and Farmers’ Rights Bill 2000, and The Biological Diversity Bill, 2000, be passed as early as possible.

*Legal Protection of Biological Material: Globalisation Versus State Freedom*⁴⁴ has discussed the issues involved when considering the implementation of plant IPRs. Providing an outline of the EU IP law, article points out the interacting internal factors that can influence proposed legislation as well as the need to meet global legislative requirements.

*Intellectual Property Management in India: New Challenges and Opportunities Ahead*⁴⁵ is an updated lecture delivered at the National Science Congress. It has identified important areas of IPR which require immediate attention and has stressed on the need for IP awareness campaign.

*Molecular Markers for Cultivar Identification and PBR*⁴⁶ has made an attempt to discuss the molecular markers for plant cultivar identification as well as their role and effectiveness.

*B2B E-commerce: Technological, Legal and IPR Issues*⁴⁷ is a paper presented in the seminar. It has discussed B2B and associated technologies, legal framework for B2B, and IPR issues of B2B.

*Legislation Affecting Science and Technology – Need for More Public Debate*⁴⁸ is a reproduced article from www.phamabiz.com. Article has discussed the pros and cons of the various acts/bills passed or to be passed by the parliament and their impact on the science and technology community. These bills covered in the article are: The Indian Patents Bill and The National Biodiversity Bill.

*Traditional Knowledge Database: IPR and Opportunities for R&D*⁴⁹ has examined the current initiatives in the documentation and setting up of

digital databases of traditional knowledge, the issue of conceptual classification of such databases, and suggests integration of the biologists' classification, applications of plant-based inventions, and the classification system practised by the patent offices.

'*Patent Amendments in India in the Wake of TRIPS*'⁵⁰ has been reproduced with permission from the *CASRIP Newsletter*. Article has critically analyzed the first two amendment bills to the Indian Patents Act. Article has also suggested improvements in many areas, including training the judges for patents, improving the Patent Rules and improvising the Sections and Rules relating to claims, and the Patent Office and centralizing its functions.

'*Fighting Patent Wars on Bioresources: The Indian Response*'⁵¹ has argued that the India IP legislations (Patents (Second) Amendment Bill, Biological Diversity Bill and Plant Variety Protection and Farmers Rights Act) are to benefit from the Convention on Biological Diversity (CBD).

'*Patents in the Life Sciences*'⁵² has been reproduced from the *Patent World*. It has discussed the issues of gene patenting and has argued for a supportive approach of Bio-Industry Association to the development of biotechnology industry, which promotes research into new knowledge and new benefits for the society.

'*Databases Protection and Access to Information*'⁵³ has discussed the advantages and disadvantages of The Antipiracy Act.

In this Volume, 9 articles have covered the areas of patent; 2 articles on copyright; 1 article on Agreement on Agriculture; 1 article each on Indian position of IP, well-known marks and plant varieties; 3 articles on traditional knowledge libraries; and 10 articles on IPR *sgenerally*.

JIPR in the Year 2002

A total of 32 articles including 2 reprinted articles (1 from *Copyright Bulletin* and 1 from *www.patentmatics.com*) were published in total 6 Issues of Volume 7 of *JIPR*.

A total of 12 foreign authors, namely: Carlos M Correa from Argentina; Philip GAltbach from England, Michael J RBlackman from UK; Mae-WanHo from London, Shi-TingChu from Berkeley; Jan Wendt and JuanIzquierdo from Santiago-Chile; Kelvin King from London; R M W Amaradasa, M A T DeSilva, R PPathirage from Sri Lanka; and Wolf gangStarein from Switzerland, contributed their articles in this Volume. Total number of Indian

contributors to this Volume is 30 with 6 articles by M D Nair and 3 article by V K Gupta. 10 articles were joint publications and 22 articles were published under single author name. No article in co-authorship with the foreign author was published in this volume.

'*High Temperature Superconductivity: Challenges in IPR Regime and Strategies for National Initiatives*' is the first article in *JIPR* published together by six authors, namely: J Koshy, R Jose, Asha M John, J K Thomas, S Suresh Kumar, and A D Damodaran. The first article of Issue 7 (1), in the order of publication, is mentioned after the second article. The articles published in Issue 7 (6) are not mentioned in an order.

'*Intellectual Property Rights under WTO and Animal Genetic Resources*'⁵⁴ has provided an overview of the IPRs international standards as set forth by the TRIPS Agreement and the modalities of IPRs that may be applied to animal genetic resources (AnGRs). It has further examined the relationship between TRIPS and the Convention on Biological Diversity.

'*Patenting on Clove*'⁵⁵ has highlighted the gaps and technological directions for pursuing R&D in clove.

'*Adoption and Implementation of Intellectual Property Rights: Experiences of Selected Countries*'⁵⁶ has reviewed the economic impact of the adoption of IP protection mechanisms for plants and other living organisms in USA and Latin American countries.

'*Brand Valuation*'⁵⁷ has provided an outline of some of the issues arising in connection with brand valuation in the changing economic scenario.

'*The Subtle Inequalities of Copyright*'⁵⁸ is reproduced with permission from *Copyright Bulletin*. Article has discussed the TRIPS Agreement relating to copyright, effects of technological advances on copyright, responsibility of copyright holders, and steps to be taken to help developing countries gain access to the world's knowledge and build up their own publishing industries.

'*Harmonization of Patent Laws—Still a Dream?*'⁵⁹ is reproduced from *www.patentmatics.com*. Article has argued for the need of a system which will protect an innovation globally and will be acceptable to all nations. It has further discussed the Patent Cooperation Treaty and its advantages.

'*Patent Information: A New Dynamic for South-East Asia?*'⁶⁰ has presented a review of patent information, its value, uses and methods of accessing it, in the context of business in South-East Asia. It has also covered the wider issues of the changing IPR scene — legal, political and practical.

*New Dimensions to Patents on Genomics and Proteomics*⁶¹ has discussed patenting on genes and potential patents on gene fragments of unknown biological functions. Article has argued for a close coordination between scientists and legal experts for proper understanding of the scientific jargon in order to quickly dispose of various patent applications.

*Patenting of Computer Software: Status and Approach*⁶² Computer software, as literary work, is protected in accordance with the Berne Convention, 1971. Accordingly, it is protected in India under Copyright Act, 1957 (as amended up to 1999). Some developed countries like USA, UK, Japan, etc. have allowed patenting of certain type of computer software related inventions by defining it in their own ways, e.g., “technological arts”. This has generated debate whether such patenting of computer software in India would have positive economic and technological impact as the country is moving ahead to be an important global player in the area of computer software and services.

*Intellectual Property Rights and Assessment of the Raw Materials (Crude Drugs) Used in Indian Systems of Medicine*⁶³ has discussed the classical drugs and patent and proprietary medicine. Article has also offered suggestions to solve the patenting problem of the raw material of ISM industry in the country.

*Why Biotech Patents are Patently Absurd—Scientific Briefing on TRIPS and Related Issues*⁶⁴ has discussed the TRIPS Agreement and has argued for revoking and banning patenting of life forms and living processes. Further, article has discussed the ways of classifying patents and proprietary databases on life forms and living processes.

*How Will Patents on Business Methods Affect E-commerce?*⁶⁵ has discussed role played by patents on business methods in the development of e-commerce.

*Patenting Microorganisms: Towards Creating a Policy Framework*⁶⁶ has discussed the need defining microorganisms and listing out various life forms for patenting in the patent law. It has further highlighted the need of creating culture collection IDAs (International Depository Authorities) in India and develop codes of operation for effective patenting with the co-ordination of IP offices and for facilitating indigenous promotion of patenting microorganisms.

*Indigenous Knowledge and Intellectual Property Rights: The Latent Logistics and the Overt Concerns*⁶⁷ has discussed the awareness of indigenous knowledge and concerns of protecting it are growing over time.

*Biotechnology and Development: A Balance between IPR Protection and Benefit-sharing*⁶⁸ has discussed various aspects of protection of agricultural innovations. Article has discussed the international framework for IPR related to genetic resources and access to these resources, and has offered several suggestions in this regard.

*TRIPS and Public Health: The Doha Declaration*⁶⁹ has discussed the Doha Declaration on TRIPS and Public Health and has argued that India needs to evaluate all the implications of the provisions of the new Declaration and through appropriate legislations ensure that maximum benefits accrue to the Indian industry and the public.

*The Value of Intellectual Property, Intangible Assets and Goodwill*⁷⁰ has discussed intellectual capital valuation concepts, methods and procedures adopted to apply credible value to IP.

*High Temperature Superconductivity: Challenges in IPR Regime and Strategies for National Initiatives*⁷¹ has discussed the developments made in the area of high temperature superconductivity for the last 15 years and the challenges in the IPR regimes.

*Intellectual Property Rights and the Third World*⁷² has discussed that the TRIPS obligations will have wide ranging socio-economic, technological and political impact in the new IP regime. It has further discussed the need for a fair play in technology transfer, creation of favourable economics of essential medicines from the point of view of the Third World, protection of traditional knowledge, etc, and has argued that creation of Traditional Knowledge Digital Library and linking it to the International Patent Classification system through a Traditional Knowledge Resource Classification system is an important conceptual step forward.

*The Protection of Plant Varieties and Farmers' Rights Act: From Legislation to Implementation*⁷³ has focussed on how to achieve the goals of The Protection of Plant varieties and Farmers' Rights Act, 2001 and of the FAO's International Treaty on Plant Genetic Resources for Food and Agriculture. In this regard, it has also proposed some suggestions relating to national and global issues.

*A Study of Patenting Activity in Aloe vera*⁷⁴ has provided an overview of Aloe Vera based patents searched in the US Patent and Trademark Office database, European Patent Office database and EKASWA database of the patents notified for opposition of the Technology Information, Forecasting and Assessment Council, India.

*'TRIPS and Parallel Imports — Impact on Drug Prices'*⁷⁵ has discussed the TRIPS provisions to parallel imports and how it is being dealt with in USA, EU, UK, Japan and Australia, and outlines the impact of parallel imports on prices. Further it has suggested for enforcing exhaustion regime in India.

*'Patents in a Small Developing Economy: A Case Study of Sri Lanka'*⁷⁶ has re-classified the patent registrations on a basis that is of relevance to Sri Lanka and has reviewed motivational factors for innovation in two economic sectors in the context of a changing economic scenario.

*'An Industry in Transition: The Indian Pharmaceutical Industry'*⁷⁷ has provided a description of Indian pharmaceutical industry, including public health and health infrastructure. Article has also stressed on the R&D in pharmaceutical industry.

*'Intellectual Property Rights in Sugarcane Research'*⁷⁸ has highlighted the importance of scientists using patent analysis in identifying research priorities and areas of core competence to derive comparative advantages to meet emerging challenges of global economic competition.

*'Indian Copyright Law and Digital Technologies'*⁷⁹ has traced the history of The Indian Copyright Act and described various amendments carried out in it from time to time. Further it has also discussed the responses of international community to the challenges of digital technologies in the form of WIPO Copyright Treaty and WIPO Performers and Phonograms Treaty.

*'A Tool to Enhance Competitiveness of SMEs'*⁸⁰ has discussed that the Small and Medium-sized Enterprises (SMEs) Division of the WIPO seeks to demystify IP by providing reader-friendly answers to some common business questions about IP.

*'The Role of Copyright in the Cultural and Economic Development of Developing Countries'*⁸¹ has discussed the WIPI Internet Treaties and the role of copyright and IP in cultural and economic development of developing countries, as also in the promotion of qualitative competitiveness in national and international trade.

*'The Indian Plant Variety Protection Act Beneficiaries: The Indian Farmer or the Corporate Seed Company?'*⁸² has discussed the issues relating to farmers' rights in relation to The Indian Plant Variety Protection Act, 2001.

*'Patenting Issues in Software Industry'*⁸³ has discussed the issues related to software patenting and their implications for software industry. It has also

presented the salient features of the ongoing global debate on whether software patents can accelerate or hamper the process of innovations in software industry.

*'Protection of Trade Secrets/Undisclosed Information'*⁸⁴ has briefly discussed Article 39 of TRIPS to explore the possibility of India's bringing in a sui generis system of protection of undisclosed information/trade secrets.

*'Patenting in Saffron'*⁸⁵ has examined the patenting activity in saffron using different databases, namely, US patent database, PCT database, database of EPO, Japanese patent database, INPADOC database, and Ekaswa-A and Ekaswa-B patent application database maintained by TIFAC.

In this Volume, 15 articles have covered the areas of patent; 3 articles on copyright; 3 articles on international agreements; 1 article each on biodiversity/biotechnology, indigenous knowledge, SMEs and trade secret; 2 articles on plant varieties and 5 articles on IPR generally.

JIPR in the Year 2003

A total of 23 articles including 1 edited text of the talk given at WIPO Inter-regional Seminar at Isfahan, Iran, were published in total 6 Issues of Volume 8 of JIPR. A total of 3 foreign authors, namely: Mary Chow and Dennis Fernandez from California, and Cecelia Oh from Malaysia, contributed their articles in this Volume. Total number of Indian contributors to this Volume is 28 with 2 articles by Mira T Sundara Rajan. 5 articles were joint publications and 18 articles were published under single author name. No article in co-authorship with the foreign author was published in this volume.

*'Issues Relating to the Patentability of Biotechnological Subject Matter in Indian Agriculture'*⁸⁶ has discussed recombinant DNA based technology (genetically modified crops) and trait-genetic use restriction technologies (terminator, verminator and traitor genes). It has also argued that more period would be necessary for India to avail advantages offered by the GATT/WTO.

*'Copyright Law in the Changing World'*⁸⁷ has discussed the evolution of copyright law and its basic principles. It has further examined the concept of originality in the law and highlighted the conflict between patent and copyright protection of software.

*'Use of Copyright by OpenSource Software Movement on Computer Software and its Implications'*⁸⁸ has discussed the concept of open-

source software with relevance to the software industry.

*'PCT System and Its Impact on the Developing Countries'*⁸⁹ has discussed the benefits of the Patent Cooperation Treaty and the PCT reforms.

*'Copyright Protection of Indirect Copying of Computer Programs: Suggestions for Indian Courts'*⁹⁰ has highlighted the inapplicability of certain tests for determining copyright infringement of literary works formulated by the Indian courts to the area of computer programs.

*'IPR and Sharing of Biological Research Materials in R&D'*⁹¹ has highlighted the issues on sharing of biological research materials in R&D work, with reference to protection of IPRs stressing the rights and requirements of the 'provider' and 'recipient' while sharing biological research materials.

*'Commercial Transfer Agreements of New Plant Varieties and Materials Thereof'*⁹² has discussed The Protection of Plant Varieties and Farmers' Rights Act 2001 and suggested some essential clauses that need to be included in the licence agreements.

*'Intellectual Property Strategy in Bioinformatics'*⁹³ has argued for a strong IP protection strategy in the bio informatics space and has suggested strategies and solutions to guide bio informatics companies in forming an aggressive strategy to protect one's IP and competitive positioning.

*'Liability Limits of Service Providers for Copyright Infringement'*⁹⁴ has discussed the issues associated with the online industry is the liability of service providers for transmitting content created by others.

*'Justifying the 'Back-Step': Establishing the Foothold of Reverse Engineering within the Indigenous Ethical Parameters of Software Copyright'*⁹⁵ has discussed the subject of reverse engineering in the light of the ethics that surround the realm of utilization of copyrighted material with specified focus on software copyright. An argument has been developed that an ethical perspective with respect to reverse engineering must stem from the basis of all intellectual property jurisprudence and not a mere 'market oriented' interpretation.

*'Analysis of US Patents Granted to Indian Inventors'*⁹⁶ has analyzed 1,566 US patents granted to Indian inventors, which are available in the US Patent and Trademark Office database.

*'India Needs an Idea Bank to Lead the World in Intellectual Property Protection'*⁹⁷ has attempted to

explain the need for a system to protect human ideas related to different walks of life in its conceptual stage. Article has argued that a new platform for the protection of human knowledge base must be created in association with the international agencies like WIPO, PCT and WTO.

*'Copyright Issues in E-Publishing'*⁹⁸ has discussed some issues between the author and the publisher and between the publisher and the end user. It has also argued that the industry and the government should come together to find solutions to the various unresolved copyright issues involved in e-publishing in the interest of the development of the book publishing industry in India.

*'Digital Technologies and Emerging Copyright Scenario'*⁹⁹ has discussed the concerns of the developing countries in securing access to information and the suggestions of the Commission on IPRs. Article has also exhorted the academic community to take active interests in copyright policy matters.

*'Contributory Patent Infringement and the Pharmaceutical Industry'*¹⁰⁰ has discussed the laws of several jurisdictions relating to contributory infringement. It has also highlighted various legal issues involved in this area by analyzing decisions of Courts in different countries.

*'Moral Rights in Developing Countries: The Example of India – Part I'*¹⁰¹ has argued that moral rights can make an important contribution to culture in developing countries. Further it has discussed copyright policy in India, traditional approaches to moral rights in India, moral rights in Indian Copyright Act, judicial development and interpretation of moral rights, moral rights, and development and future of moral rights in India.

*'Ambush Marketing-The Problem and the Projected Solutions vis-a-vis Intellectual Property Law-A Global Perspective'*¹⁰² has analyzed the concept of ambush marketing to its genesis, the various famous incidents of ambush marketing and the consequential losses and evaluates the existing IP regime in combating this menace. In this regard, article has analyzed the various *sui generis* legislations framed by countries like South Africa and Australia and has attempted to cull out a suitable anti-ambush marketing legislative policy for India.

*'Microbial Biopiracy in India: How to Fight Back?'*¹⁰³ has discussed the phenomenon of microbial biopiracy in India given the current scenario.

*IPRs and Biological Resources: Implications for Developing Countries*¹⁰⁴ has attempted to answer the question whether to allow IPRs over biological resources or not, and has suggested two-pronged strategy.

*Moral Rights in Developing Countries: The Example of India—Part II*¹⁰⁵ has discussed the moral rights in developing. It has focussed on judicial development and interpretation of moral rights.

*Analysis of Patents Pertaining to Arsenic Removal from Contaminated Water Bodies*¹⁰⁶ has discussed patent activity in the field of arsenic removal from contaminated water bodies and has also analyzed major areas of patenting, and technological trends.

*Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore: International, Regional and National Perspectives, Trends and Strategies*¹⁰⁷ is an edited text of the talk of the author given at WIPO Inter-regional Seminar at Isfahan, Iran. It has described various international and regional attempts to protect traditional culture and folklore. It has also reported the India position in respect of the protection of traditional knowledge and folklore.

*Creating and Embedding an Intellectual Property Rights Policy in an Educational or Publicly-Funded Research and Development Institution*¹⁰⁸ has discussed how creating and embedding IPRs policy in any educational institution could be useful and beneficial for the institution.

In this Volume, 4 articles have covered the areas of patent; 9 articles on copyright; 1 article on international agreement; 2 articles on biological resources; 1 article each on plant varieties, bioinformatics and microbial piracy; and 4 articles on IPR generally.

JIPR in the Year 2004

A total of 26 articles were published in total 6 Issues of Volume 9 of *JIPR*. Only 1 foreign author named Lien Verbauwhede from Switzerland contributed article in this Volume. Total number of Indian contributors to this Volume is 28 with 2 articles by Suresh C Srivastava. 5 articles were joint publications and 21 articles were published under single author name. No article in co-authorship with the foreign author was published in this Volume. The articles published in Issues 9 (3) and 9(6) are not mentioned in an order.

*Geographical Indications under TRIPS Agreement and Legal Framework in India: Part I*¹⁰⁹ has

discussed the basic issues of protection of geographical indications relating to TRIPS Agreement.

*Intellectual Property Systems in Scientifically Capable Developing Countries: Emerging Options*¹¹⁰ has discussed the IP system in scientifically capable developing countries and has argued for the need for national IPR policies to build in vigilance against deliberate or accidental misappropriation of traditional knowledge by patentees.

*Multi-disciplinary Studies on IPR in R&D: A Review*¹¹¹ has reviewed the multidisciplinary studies on IPR from the perspective of their use in R&D.

*Border Areas for the Protection of Intellectual Property Rights: An Analysis*¹¹² has compared the mandates under the TRIPS and those under the Indian laws with an emphasis on The Copyright Act, 1957, The Trade Marks Act, 1999, and The Customs Act, 1964, to examine the extent to which India satisfies the TRIPS obligations.

*Geographical Indications under TRIPS Agreement and Legal Framework in India: Part II*¹¹³ has discussed the concept of geographical indications and the law governing passing-off and its application as developed and applied by Indian courts. It has also discussed the statutory concept of geographical indications in the light of The Geographical Indications of Goods (Registration and Protection) Act, 1999.

*Celebrity Rights as a Form of Merchandise – Protection under the Intellectual Property Regime*¹¹⁴ has examined celebrity rights as they form an individual class of IPRs. Article has also discussed a question whether the celebrities deserve exclusive rights when they have submitted themselves to the public and seek public patronage and thrive on the public applause.

*Passing Off in Internet Domain Names—A Legal Analysis*¹¹⁵ has discussed the concept of passing-off in internet domain names and the position of law before coming into effect of The Trade Marks Act, 1999.

*Copyrightability of Characters*¹¹⁶ has focused on the copyrightability aspect of IP protection that could be granted to graphic and fictional characters.

*Copyright Law of India and the Academic Community*¹¹⁷ has made an attempt to look at the copyright issues in the background of the philosophical justification for copyright protection.

*WTO-TRIPS Obligations and Patent Amendments in India: A Critical Stocktaking*¹¹⁸ has examined the amendments in the Indian patent system in consequence of TRIPS Agreement and has argued

that the Indian patents regime is inadequate to meet the challenges posed by the TRIPS Agreement.

*'Towards a Policy for Management of Intellectual Property in Public Agricultural Research Systems in India'*¹¹⁹ has made an attempt to develop an IP policy framework for public agricultural research systems in India.

*'Technology Transfer and the Intellectual Property Issues Emerging from It – An Analysis from a Developing Country Perspective'*¹²⁰ has made an attempt to clarify the meaning of “technology transfer” and what it actually transfers and has also elaborated on the modalities of technology transfer agreement and its various types.

*'Digital Rights Management: An Integrated Secure Digital Content Distribution Technology'*¹²¹ has discussed about the digital medium, digital watermarking, copy protection techniques, important legal developments and issues, court cases, DRM applications, DRM technology overviews, and DRM enabling technologies and standardization.

*'Research Exemptions in Patent Law'*¹²² has comparatively discussed the patent law on research exemptions in India and USA and has suggested a framework that would properly balance the interests of research and exclusivity in order to achieve optimum progress in science and technology.

*'System Perspective for IPR Protection in The Plant Kingdom'*¹²³ has highlighted the aspects of convergence and divergence of IPRs and benefit sharing related provisions, issues and concerns in relation to plant kingdom.

*'Neighbouring Rights Protection in India'*¹²⁴ has attempted to highlight and identify protection regime for the neighbouring rights under The Copyright Act, 1957. It has also discussed the concept of neighbouring rights, protection regime, loopholes and remedies in Indian the context.

*'Compulsory Licences Imbroglia: Provisions Under TRIPS and Their Interpretations'*¹²⁵ has discussed amendments to The Indian Patents Act, 1970 on compulsory licence and the need for granting it.

*'Domain Name Disputes and Evaluation of The ICANN's Uniform Domain Name Dispute Resolution Policy'*¹²⁶ has critically analyzed the judicial decisions and has also highlighted the lacunae in the ICANN's Uniform Domain Name Dispute Resolution Policy (UDRP) and further provided some suggestions for the improvement of UDRP.

*'P2P Networks: Online Piracy of Music, Films and Computer Software'*¹²⁷ has made an attempt to explore the social, economic and legal implications of sharing of works through various P2P networks.

*'Capacity Building for Innovation: Role of IP Infrastructure'*¹²⁸ has discussed the role of IP Infrastructure and areas that are to be addressed in capacity building for innovation.

*'Biotechnology Patenting'*¹²⁹ has discussed the economic principles of IP and various issues in biotechnology patenting.

*'Intellectual Property in Software: Insights for Indian Business'*¹³⁰ has argued that conflicting global IP practice in the case of software has resulted in multiple schools of thought, each providing their way of how it must be managed. Article has addressed the concerns in the area of business, technology and law.

*'Effectiveness of Indian Sui Generis Law on Plant Variety Protection and its Potential to Attract Private Investment in Crop Improvement'*¹³¹ has examined the potential of The Protection of Plant Variety and Farmers' Rights Act, 2001 in spurring private investment in Indian plant breeding, strengthening seed industry and making available quality seed to farmers for achieving all round agricultural development.

*'Experimental Use Exception: An International and Comparative Overview with a Possible Answer to The Forthcoming Indian Patent Legislation'*¹³² has discussed the international position of exceptions to patent laws and has also explained the experimental use exception and its importance.

*'The Long Arm Jurisdiction of Courts Regarding Copyright Law in India'*¹³³ has made an attempt to expound the scope of territorial jurisdictional powers of the courts, tribunals or other authorities constituted under various enactments and dealing with copyright violations in India.

*'Intellectual Property and E-commerce: How to Take Care of a Company's Website?'*¹³⁴ has discussed the basic issues relating to a website in the context of IP.

In this Volume, 4 articles have covered the areas of patent; 5 articles on copyright; 1 article on biotechnology patenting; 2 articles on geographical indications; 1 article on plant varieties; 2 articles on domain names; and 11 articles on IPR generally.

In total, in this decade, *JIPR* has published 5 volumes, 24 issues, and 132 articles. These 132

articles include 14 reprinted articles in the form of modified versions of the papers presented in regional forums, seminars, symposiums, articles published in newsletters, journals, bulletin, and websites. Only in Volume 9 (2004) no reprinted article was published. 29 foreign scholars from 9 different countries contributed their 20 articles to *JIPR*. 126 Indian authors contributed their articles. 31 co-authored and 101 single authored articles were published. No article by any Indian author in co-authorship with any foreign author was published in this decade. A total of 41 articles were published on or relating to patent; 19 relating to copyright; 1 on Indian IP system; 6 on WIPO and/or international agreements; 7 on biodiversity/biotechnology; 2 on geographical indications; 4 on Traditional Knowledge Digital Library; 2 on well-known trademarks; 6 on plant varieties; 3 on domain names; 1 each on indigenous

knowledge, SMEs, trade secret, bioinformatics and microbial piracy; and 36 on IPR *generally*. (See, “Table 1” below).

***JIPR*: Review of Last Issues of Volumes**

The head ‘Conference Report’ introduced from the first volume was used continuously till Volume 6 (2001) with only a break in Volume 5 (2000). After that it discontinued. The heads ‘Patent Scan’, ‘Subject & Author Index’, ‘Patent News’, ‘Feedback’, ‘Genome Research’, ‘Your Queries’ were not used during this decade. The head ‘Literature Review’ was followed without any break. The head ‘IPR News’ was followed throughout except the Volume 7 (2002) where a new head ‘IPR News & Notes’ was introduced for that particular volume. The heads ‘Book Review’, ‘Annual Index’, ‘New Publications’, ‘Statistics’ introduced in Volume 3 (1998) were not uniformly followed. ‘Book Review’

Table 1 — Data relating to the articles published in Volumes 5 (2000) to 9 (2004) of *JIPR*

Volume	No. of issues	No. of papers	No. of reprinted papers/ reports	No. of foreign authors/ Country/No. of papers	No. of Indian authors	No. of joint publications	No. of papers published as a sole author	No. of papers published by the Indian authors in co-authorship with foreign authors	Areas of IP covered in the Volume
5 (2000)	6	23	2	4/ Malaysia, Switzerland, Sweden and Singapore/ 4	15	3	20	—*	Patent (9) WIPO/ International Agreements (1) Biodiversity/ biotechnology (3) Tradition Knowledge Digital Library (1) Well-known marks (1) Plant Varieties (1) Domain Names (1) IPR <i>generally</i> (6)
6 (2001)	6	28	9	9/ Switzerland, UK and USA / 6	25	8	20	—	Patent (9) Copyright (2) Indian IP System (1) WIPO/ International Agreements (1) Tradition Knowledge Digital Library (3) Well-known marks (1) Plant Varieties (1) Patent (15)
7 (2002)	6	32	2	12/ Argentina, UK, USA, Chile, Sri Lanka and Switzerland / 7	30	10	22	—	Copyright (3) WIPO/ International Agreements (3) Biodiversity/ biotechnology (1) Tradition Knowledge Digital Plant Varieties (2) Indigenous knowledge (1) SMEs (1) Trade Secret (1) IPR <i>generally</i> (5)
8 (2003)	6	23	1	3/ USA and Malaysia / 2	28	5	18	—	Patent (4) Copyright (9) WIPO/ International Agreements (1) Biodiversity/ biotechnology/ biological resources (2) Plant Varieties (1) Bioinformatics (1) Microbial piracy (1) IPR <i>generally</i> (4)
9 (2004)	6	26	0	1/ Switzerland / 1	28	5	21	—	Patent/technology transfer (4) Copyright (5) Biodiversity/ biotechnology/ Biological Resources (1) Geographical Indications (2) Tradition Knowledge Digital Plant Varieties (1) Domain Names (2) IPR <i>generally</i> (11)

*[Em dash (—) refers to zero (0) as no such article was published in any of the volumes of *JIPR* the first decade of twenty-first century (2000–2004).]

was followed only in Volume 5 (2000), 'Annual Index' in Volumes 5 (2000) and 6 (2001), 'New Publications' was not followed in this decade. 'Statistics' was used only in Volume 5 (2000). A new head 'Technical Notes' was introduced in Volume 8 (2003) which was used only this Volume.

Conclusion

A review of articles published between 2000–2004 reveals a change in the publishing trend of *JIPR*. In Volume 9 (2004) no reprinted article was published. Most number of articles were published on patent followed by copyright. In the initial volumes, articles were published with due permission perhaps because of the absence of active IP scholarship and for the purpose of disseminating IP knowledge furtherance to the principle of *publici juris*. Nevertheless, these writings published in *JIPR* paved way for the readers and scholars to identify the voids in the areas of IP research and fill those voids through their quality research works. In this way, *JIPR* has contributed in the creation of new knowledge by sincerely disseminating IP information and knowledge. Unlike the last decade of twentieth century, most of the articles published in *JIPR* during in this decade have been the original contributions.

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