

Jan Vishwas (Amendment of Provisions) Act Comes Into Force Today

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In the wake of the Ministry of Commerce and Industry's announcement to bring the Jan Vishwas (Amendment of Provisions) Act in force on August 1, we are pleased to bring to our readers a tidbit on the development by SpicyIP intern Aditi Bansal. Aditi is a fourth year law student studying at OP Jindal Global University. She is incredibly passionate towards IP laws and its workings.



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By Aditi Bansal

Recently on July 26, the Ministry of Commerce and Industry notified that the provisions of Jan Vishwas (Amendment of Provisions) Act with respect to different IP legislations will come into force today i.e. August 1. The Parliament passed the Bill last year indicating the amendments to be made to the intellectual property statutes. The primary aim of the Act is to decriminalize and remove certain offenses in order to ease the process for businesses in India. These amendments were made to the Copyright Act, 1957, the Patents Act, 1970, the Trade Marks Act, 1999 and the Geographical Indications Act, 1999. The legislation seeks to

“reduce the compliance burden on individuals and businesses with the twin objectives of ease of doing business and ease of living for the citizens” thus aiming to kill two birds with one stone.

However, these changes have implications which are quite different from what one may expect (read here and here). For instance, while the legislation dilutes the working statement requirement, its other provision to amend the Patent Act, 1970 have increased the maximum amount of penalty which can be imposed under Section 120 (for false patent marketing) from one lakh to ten lakhs. Additionally, the penalty increases by Rs.1000 for every day for which the “claim continues”. The changes are similar in other Sections of the Act whereby the provisions dilute important public health safeguards and make it harder for small businesses to operate (interested readers can refer to this detailed post by Aparajita Lath on this). Thus, these amendments to the IP laws do not seem to align with the purpose of the Act i.e. ease of doing business.

Apart from this, the legislation completely misses that need for differentiation as to the various kinds of infringement, cases and scenarios, while dealing with offences under different IP Acts, especially the ones under the Copyright Act (see here and here). Differentiating among such cases and scenarios is crucial before criminalizing or increasing the penalties under different Acts. Further criminalization does not always benefit the society, there are other ways to have strict compliances which in turn help ease the process and would eventually be beneficial.

On the brighter side, such amendments do give a sense of safety in terms of right holders being compensated and bring in place a separate resolution mechanism for offences under Trademark and Patent Acts via different proposed Trademark Rules and Patent Rules. But again, these changes come with their own set of issues (see here, here and here for detailed comments on these Rules).

Tags:

About The Author



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1 thought on “Jan Vishwas (Amendment of Provisions) Act Comes Into

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1.



Anonymous

August 4, 2024 at 11:21 am

Another half-baked set of changes. I don't understand why there are criminal penalties in the patent law. They should all have been removed and/or replaced with either monetary or non-monetary penalties like disqualification.

Reply

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