



## 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 (2005–2009) — III

Aqa Raza<sup>1†</sup> and Kanika Malik<sup>2</sup>

<sup>1</sup>Jindal Global Law School, O.P. Jindal Global University, Sonapat- 131 001, Haryana, India

<sup>2</sup>CSIR–National Institute of Science, Communication and Policy Research (CSIR-NIScPR), New Delhi- 110012, India

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This Paper seeks to review the articles published in the *Journal of Intellectual Property Rights (JIPR)* in the second half of the first decade of the twenty-first century from Volume 10 (1) (2005) to Volume 14 (6) (2009). During this period, a total of seven post-independent enacted IP legislations were in force in the country. This Paper seeks to review the articles published in *JIPR* year-wise during the decade. 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) areas of IP covered in each volume. A review of articles published during this period reveals that on an average, a total of 44 articles have been published in each volume. In the total articles published between 1996–2009, the articles published during the second half of the first decade of 21<sup>st</sup> century constitutes 52 percent (220 articles) compared to 31.20 percent published between 2000–2004 (132 articles) and 16.78 percent between 1996–1999 (71 papers). *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, Scholars, 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, IPRs, Treaties, Agreement, Research, Case Law Development, Amendments, Review, IP Publications, *Publici Juris*, Dissemination of Knowledge, Creation of New Knowledge, First Decade, Twenty-first 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 (1996–1999) — I*<sup>1</sup> (First Paper). A sequel to the First 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 (2000–2004) — II*<sup>2</sup> was published in *Journal of Intellectual Property Rights (JIPR)*. This is the third paper in the series and reviews the articles published in the *JIPR* in the second half of the first decade of the twenty-first century (2005–2009). Paper proceeds on the same arguments as developed in the First Paper. A total of two hundred and twenty (220) articles were published

in *JIPR* during this period. Most number of articles published in a volume is 52 in Volume 13 (2008) and the lowest is 37 published in Volume 11 (2006). *JIPR* in this decade has also reprinted a few articles with permission. These publications can be identified with the asterisk (\*) after the title of the article.

### **Papers in *JIPR*: First Decade of the Twenty-first Century (2005–2009)**

During the first half of the first decade, a total of 220 articles in 30 Issues of 5 Volumes were published in *JIPR*, with 46 articles in Volume 10 (2005), 37 articles in Volume 11 (2006), 44 articles in Volume 12 (2007), 52 articles in Volume 13 (2008), and 41 articles in Volume 14 (2009).

### ***JIPR* in the Year 2005**

A total of 46 articles including 1 address of Shri Gopalkrishna Gandhi, Governor of West Bengal, at

<sup>†</sup>Corresponding author: Email: aqaraza@outlook.com

the inauguration of the National Symposium on Intellectual Property Rights, were published in total 6 Issues of Volume 10 of *JIPR*. Out of these 46 articles, most number of articles (15) were published in Issue (5). A total of 20 foreign authors contributed their papers in this Volume, namely: Esteban Burrone (Switzerland); Paul Edward Geller, Kelly G Hyndman, Steven M Gruskin and Chid S Iyer (USA); Paul Leo Carl Torremans (Belgium); Paul Ganley (London); Juneseuk Shin and Yongtae Park (Korea); Reiko Aoki (Auckland); Philippe Baechtold and Tomoko Miyamoto (Geneva); Sandro Mendonca (Portugal and UK both—as mentioned in the author's detail); Georgios IZekos (Greece); Heinz Goddar (Germany); Benjamin Wang (Taiwan); Lydia GTansinsin (Philippines); David W Swenson (Ohio); Domingo Represa-Sánchez (Spain); and Ruud Peters (Netherlands). Total number of Indian contributors to this Volume is 46 with 2 articles by M M S Karki. 15 articles were joint publications and 31 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 10 (2), 10(3), 10(4), 10(5) and 10(6) are not mentioned in order.

*Testing for Copyright Protection and Infringement in Non-Literal*<sup>3</sup> is the first article published in the second half of this decade. It has analyzed the case law of US and UK relating to non-literal infringement of computer software and the different tests laid down by the courts in these jurisdictions, and has also examined the applicability of these tests to the Indian context in order to locate an appropriate test for India, in the light of Indian copyright jurisprudence.

*Photocopying of Copyrighted Works for Educational Purposes: Does it Constitute Fair Use?*<sup>4</sup> has discussed the question whether photocopying of copyrighted works for an educational purpose constitutes fair use, and compared the US law with the Indian law.

*Intellectual Property Rights and Innovation in SMEs in OECD Countries*<sup>5</sup> has analysed the policies enacted primarily in the OECD countries to try and overcome the barriers. Article has also made some suggestions in this regard.

*Patenting of Biological Material and Biotechnology*<sup>6</sup> has analyzed the inventions relating to tools of bioinformatics, methodology, and interpretation as business methods with regard to patenting.

*Intellectual Property Rights in Fisheries Sector*<sup>7</sup> has analyzed the document patents since 1913 to 2000 to argue that there has been a shift towards increased patenting activity in fisheries sector post TRIPS era particularly by domestic applicants.

*Personal Data Privacy and Intellectual*<sup>8</sup> (sic) has discussed some alternatives under the IPRs regime relating to effective data protection and has also discussed the tensions between data protection and IP enforcement.

*Patenting in Micromagnetic Sensors*<sup>9</sup> has highlighted the results of patent analysis study in the area of micromagnetic sensors.

*Remix and Copyright Law*<sup>10</sup> has analyzed the issue of remix of old songs and the economics behind it, in the light of The Copyright Act, 1957.

*Employer's Copyright vis-à-vis Author's Right: An Unresolved Legal Dilemma*<sup>11</sup> has explored the protection to authors-employees and freelancers in India in the light of the US decision in *Tasini case*.<sup>12</sup> Article has also highlighted the concept of authorship in India and the significant differences in the manner employees and freelancers are treated under the Indian legal system.

*The Broadening Horizons of Trademark Law-Registrability of Smell, Sports Merchandise and Building Designs as Trademarks*<sup>13</sup> has discussed three aspects on which trademark protection is being envisaged—registrability of smell, sports merchandise and building designs.

*Trademark Law: Is Europe Moving Towards an Unduly Wide Approach for Anyone to Follow the Example?*<sup>14</sup> has focussed on the European developments in the area of the registration of various kinds of trademarks, such as colour, sound and smell marks with an emphasis on the question that how these new types of marks meet the criteria for registrability and what would be the consequences of their registration.

*International Intellectual Property, Conflicts of Laws, and Internet Remedies*<sup>15</sup> has discussed that the notion of territoriality, as applied within the classic framework of conflicts analysis, is ambiguous. It has argued that diverse interests from one country to the other are best optimized by following the public policies that underlie the community emerging between countries in the relevant field of law.

*International Patent Law Harmonization—A Search for the Right Balance*<sup>16</sup> has discussed the historical development of international norm setting at

WIPO and highlighted the today's international challenges surrounding the international patent system. It has further examined a number of features that appear to be fundamental for a well-balanced patent system serving society as a whole, while supporting innovation.

*'The Internet, Creativity and Copyright Incentives'*<sup>17</sup> has discussed the tension and the realities of creativity that underpin it, and has proposed some suggestions in this regard.

*'Generation and Application of Patent Claim Map: Text Mining and (Network Analysis)'*<sup>18</sup>(sic) has discussed the issue of patent valuation and competitor strategy, and has proposed for an exploratory method to deal with patent claims using text-mining and network analysis.

*'Intellectual Property and Consortium Standard Patent Pools'*<sup>19</sup> has examined the patent pools in the context of a consortium standard.

*'Intellectual Property Licensing: Discovering its Facets'*<sup>20</sup> has discussed the basic concepts of IP licensing and its importance and revenue generating power of IP.

*'Patent Analysis as a Tool for Research Planning: Case Study'*<sup>21</sup> has argued that by analysing the patents and studying the prior art, the research gaps can be identified and the research work to be taken up can be focused. Article has used patent analysis in research planning and has taken "tea" as a case study.

*'Inventive Step or Non-Obviousness of an Invention'*<sup>22</sup> has briefly discussed the concepts of "inventive step", "non-obviousness" and "skilled person".

*'The Patents (Amendment) Act, 2005 and TRIPS Compliance—A Critique'*<sup>23</sup> has critiqued The Patents (Amendment) Bill, 2005 which was introduced to meet India's deadline to comply with TRIPS. Article has discussed that The Patents (Amendment) Act, 2005 deviated from The Patents (Amendment) Ordinance, 2004, in certain fundamental respects. and has also analyzed the difference in the language of law between the Ordinance and the Patents Act.

*'Implications of New Patent Regime on Indian Pharmaceutical Industry: Challenges and Opportunities'*<sup>24</sup> has provided an overview of the pharmaceutical industry in India and the (likely) impact of product patent regime on it.

*'Large Innovating Firms and Patent Management: Challenges for SMEs' Managers and IP Officials in Catching-up Economies'*<sup>25</sup> has covered the evolution

of empirical patterns in patenting by the largest industrial companies from Europe, Japan and the US, and has explored the implications of this multi-technology trend for IP offices and small and medium-sized firms from catching-up countries.

*'Discrepancies in Biotechnology/Chemical Patenting'*<sup>26</sup> has investigated the existence of discrepancies in the standards between chemical and biotechnology patenting.

*'Testing Parameters for Software Patentability'*<sup>27</sup> has attempted to develop parameters for determining patentability.

*'Copyright Laws as a Means of Extending Protection to Expressions of Folklore'*<sup>28</sup> has analyzed the existing copyright laws with a view to determining their potential to extend protection to folklore and diverse heritages.

*'Patenting Activities in Agriculture from India'*<sup>29</sup> has studied the trends of patenting activity in the field of agriculture with reference to India using data from 1 January 1995 to 31 December 2004.

*'IPR and India – A Viewpoint'*<sup>30</sup> is an address of Shri Gopalkrishna Gandhi, Governor of West Bengal, at the inauguration of the National Symposium on Intellectual Property Rights.

*'Role of Collaborations, Systems, and the Soul in IP and Innovation'*<sup>31</sup> has argued that competitive success for innovative technology depends on speed to market and speed to profits. Innovative companies must empower technology managers to adopt a business-building approach that connects technology creation to the target market.

*'Capacity Building in Management of Intellectual Property Rights— A Case of Publicly Funded Institutions'*<sup>32</sup> has focussed on the role of government in capacity building in India and has argued that no exercise at the national level can succeed if all or most players are not engaged in the activity.

*'Intellectual Property Management and Value-Added Strategy of the Industrial Technology Research Institute'*<sup>33</sup> has analyzed the strategies which public research organizations apply to add value to their IP. Article has used Industrial Technology Research Institute of Taiwan as an example while referring to the American system, and has also discussed the case studies to make recommendations on the creation of IP-centric technology transfer mechanisms.

*'Encouraging Protection of Public Research Results in Spain'*<sup>34</sup> has discussed the goals of research at universities and public research bodies in the

advancement of knowledge, and has described the results of the experience since 1986 to promote the industrial protection of research at Spanish universities.

*'Making Industry-University Interactions Work – Model Agreements in Germany'*<sup>35</sup> has discussed the two agreements, namely: The Berlin Contract and The Munich Contract — used to ensure effective arrangements between the researcher, university and industry.

*'Transfer of Technology with Intellectual Property Rights (IPR)—The Philippine Experience'*<sup>36</sup> has discussed the Philippine experience in technology transfer or Technology Licensing Agreements, commercial application of transfer of technology and the commercialisation of results of research with IPRs.

*'Technology Transfer: What India can learn from the United States'*<sup>37</sup> has discussed the history of tech transfer in US, followed by a discussion of The Bayh-Dole Act and various aspects of IP ownership with a focus on a relevant case study.

*'Valorization of Intellectual Property from Publicly Funded Organizations: A Case Study of the Council of Scientific & Industrial Research (CSIR), India'*<sup>38</sup> has examined how CSIR, India, has played a key role in being a dominant player in filing and securing patents in India and abroad and its systematic efforts for the valorization of its IP portfolio aiming at deriving social as well as private returns by forming partnerships.

*'Technology Transfer from a Technical University: A Case Study of IIT Delhi'*<sup>39</sup> has discussed the global perspective of technology transfer process from technical universities and academic institutions touching upon the role of FITT (Foundation for Innovation and Technology Transfer), the technology transfer office of IIT, Delhi.

*'Medical Device Development – A Novel Experience in Patenting and Technology Transfer'*<sup>40</sup> has discussed the novel methods of technology transfer to ensure successful commercialization in the country, where a medical devices industry hardly existed. It has further discussed the strategies using novel approaches and their development and changes with time.

*'Technology Licensing: A Win-Win Solution in the Intellectual Economy'*<sup>41</sup> has argued that in technology licensing, the transaction between licensor and licensee is of a much wider scope, and has discussed

about the difference in the patent licensing and technology licensing.

*'The Nanotechnology Patent 'Gold Rush'*<sup>42</sup> has discussed the effect of nano-patent gold rush that is underway by patent prospectors as start-ups. Article has also highlighted the fact that the entire US patent system is under greater scrutiny and strain, with the USPTO continuing to struggle with evaluating nanotech-related patent applications.

*'Value Addition to Agricultural Resources – The IPR Angle'*<sup>43</sup> has argued that for successful exploitation of the opportunities in food processing industries, it is essential to act in terms of IP protection and a huge awareness that need to be brought about amongst the academia, industry and research organizations.

*'Value Addition and Commercialization of Biodiversity and Associated Traditional Knowledge in the context of the Intellectual Property Regime'*<sup>44</sup> has provided an overview of the issues involved in value addition to bio-resources and protection of IPR of TK holders. It has also referred to the international and national legal and policy initiatives and suggested a few measures to promote the value addition, technology transfers, and IPR protection for TK holders.

*'Role of Intellectual Property in Economic Growth'*<sup>45</sup> has investigated the impact of a strong IP regime in the economic development of a nation and has argued that IP systems must be developed so as to bring in socio-economic well-being.

*'Integrated Circuits and Intellectual Property Rights in India'*<sup>46</sup> has examined the nature of IP involved in layout-designs, their use in semiconductor integrated circuits and the other relevant provisions of The Semiconductor Integrated Circuit Layout-Design Act, 2000.

*'Passing off and the Law on 'Trade Dress' Protection: Reflections on Colgate v Anchor'*<sup>47</sup> has assessed the impact of the judgment of Delhi High Court in *Colgate v Anchor*.<sup>48</sup> Article has discussed that the ruling has considerably widened the net of protection available to the external appearance and configuration of goods—together constituting the 'trade dress' of goods. It has further critically analyzed the *Colgate* ruling and assessed its merits on the touchstone of the principles extracted from the existing corpus of case laws on trade dress protection, in the process arguing against a liberal protectionist regime.

*Digital Alteration of Photographs and Intellectual Property Rights*<sup>49</sup> has discussed that the advancement in technology has made it easier to digitally alter a photograph. It has further discussed that how such alteration interferes variously with the IPRs of the author, owner, or the subject of the photograph, in the light of the laws of USA, UK and India.

*Non traditional Areas of Intellectual Property Protection: Colour, Sound, Taste, Smell, Shape, Slogan and Trade Dress*<sup>50</sup> has reviewed the developments in non-traditional areas of IP protection.

In this Volume, 13 articles covered the areas of patent/biotechnology; 5 articles on technology transfer; 2 articles each on copyright, trademark and innovation; 2 articles on innovation; 1 article each on data privacy, internet remedies, IP licensing, public research result, CSIR, nanotechnology, agricultural resources, integrated circuits, trade dress, non-traditional areas of IP, biodiversity and associated traditional knowledge; and 7 articles relating IPRs research.

#### **JIPR in the Year 2006**

A total of 37 articles were published in total 6 Issues of Volume 11 of *JIPR*. 12 foreign authors contributed their papers in this Volume, namely: Philippe Cullet, Derek Bosworth, Johanna Gibson and Shamnad Basheer (2 articles) from UK; LeeMoerman from Australia; AndreaMangani from Italy; Ruifa Hu, Jie Huang and Jikun Huang from China; Carl Pray from USA; ThitimaPuttitanun from California; and Ernie Pitchfork from New Zealand. Total number of Indian contributors to this Volume is 37 with 3 articles by Zakir Thomas. 12 articles were joint publications and 25 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 11(1), 11(2), 11(3), 11(4), 11(5) and 11(6) are not mentioned in order.

*Human Rights, Knowledge and Intellectual Property Protection*<sup>51</sup> has focussed on recent developments concerning the understanding of Article 15 (1) of the Covenant on Economic, Social and Cultural Rights to highlight the need to find a balance between the claims of IPRs holders and all other actors making contributions to intellectual development, such as traditional knowledge holders.

*Conceptual Issues of Global Counterfeiting on Products and Services*<sup>52</sup> has discussed the difficulties of measuring counterfeiting and has provided

evidence of the magnitude of the problem worldwide. It has also drawn on a range of conceptual and empirical work to develop an agenda of items for company policy makers.

*Financing of Intellectual Property: Developing Countries' Context*<sup>53</sup> has argued that financial constraints and lack of infrastructure are also one of the hurdles in creating and maintaining IP in the developing countries, and has suggested that industries in developing countries need to appreciate that a good portfolio makes good business sense.

*Proprietary Rights or Common Property? — The Dilemmas of Copyright Protection of Case-Law Reporters*<sup>54</sup> has looked into foreign jurisdictions to unravel the flux in the Indian copyright law on law reporters, preceded by a cursory understanding of macrocosmic standards of originality and the consequent qualification for copyright protection.

*Copyright Laws in India and Maintenance of a Welfare State*<sup>55</sup> has argued that developing nations like India should develop copyright models that do not stunt the growth of their skilled work force and further satisfy their constitutional goals.

*India's Tryst with TRIPS Continues!*<sup>56</sup> has discussed the politics of TRIPS compliance and legal intricacies involved in India's attempt to read further limitations into TRIPS.

*Beyond Wines and Spirits: Developing Countries' GI Products and their Potential in WTO Regime with Special Reference to India*<sup>57</sup> has discussed the problem of protecting products of geographical origin post-TRIPS exploring the possibilities of extending better protection to unprotected products through the route of GI. Article has also discussed the potential worth of Indian GI products with particular reference to newly found bonanza of bio-diesel extraction from *Jatropha seeds* as available in the state of Chattisgarh.

*Intellectual Property Securitization: How Far Possible and Effective*<sup>58</sup> has discussed the issues related to patent securitization.

*Patenting Lives—Life Patents, Culture and Development*<sup>59</sup> has discussed the question whether limitations are warranted on IP monopolies that may be created in living organisms, including plants/plant varieties and animals, in the context of genetic engineering.

*Taming of the Flu: Working Through the Tamiflu Patents in India*<sup>60</sup> has explored the Indian patent position in the time of bird flu pandemic, and has also recommended strategies for creating an optimal and

affordable stockpile and calling the government to take a more definite stand in the matter.

*'Data Protection Law in India: The TRIPS Perspective'*<sup>61</sup> has evaluated the mandates and requirements of TRIPS Agreement and the data protection requirements in India.

*'Indigenous Culture and Intellectual Property Rights'*<sup>62</sup> has analyzed the intersection between intellectual property rights regime and indigenous claims in the context of folklore, songs, practices, etc., as well as human rights and IP laws with specific reference to Australia where the judiciary has played a significant role in protecting the cultural interest of the aboriginals.

*'Legal Protection of Databases: An Indian Perspective'*<sup>63</sup> has argued for protection to such databases from an Indian perspective. It has further discussed the copyright protection and analyzed the protection models available for non-creative databases.

*'Business Method Patents: The Road Ahead'*<sup>64</sup> has discussed evolution of Business method patents (BMPs), and has argued that in spite of the criticisms, this form of patents is necessary, particularly, considering the current hi-technology scenario.

*'The Melton Mowbray Pork Pie Case: Lessons for India?'*<sup>65</sup> has analyzed *Melton Mowbray case* and examined the concept of protection of geographical indications and the lessons India may learn from the decision.

*'Protection of Intellectual Property in the Form of Trade Secrets'*<sup>66</sup> has explored the possible remedies that a trade secret owner who is also the employer, can get on such breach of trust or confidence. The paper has also identified the models used by courts in developed countries and has also attempted to formulate a possible model that can be followed by Indian courts in counteracting the legal hurdle.

*'Piracy of Trade Dress and the Law of Passing off: National and International Perspective'*<sup>67</sup> has discussed the meaning and connotation of trade dress and growing dimensions with respect to the scope of its definition which has expanded to include hotel design, virtual trade dress, etc. It has further reviewed the Indian judicial pronouncements dealing with subject.

*'Some Reflections on Patent Search: A Case Study of Medicinal Plants of India'*<sup>68</sup> has discussed the constraints and opportunities in conducting patent search using free Internet websites EPO and USPTO

with the illustrative analysis of medicinal plants of India.

*'Accounting for Intellectual Property: Inconsistencies and Challenges'*<sup>69</sup> has explored the discourse of accounting in recognition of IP as an asset according to the new International Accounting Standards.

*'An Economic Analysis of Rise of Service Marks'*<sup>70</sup> has discussed the importance of service trademarks in the light of the structural and competitive evolution of modern economies.

*'The Determinants of Plant Variety Protection Applications in China'*<sup>71</sup> has discussed the Plant Variety Protection Act, 1997. It has argued that private firms have lesser incentives in developing new varieties in contrast to purchasing new varieties.

*'Intellectual Property Rights and Multinational Firms' Modes of Entry'*<sup>72</sup> has discussed the relationship between IPR and the entry mode decision by multinational firms.

*'Transborder Reputation'*<sup>73</sup> has explored the genesis of transborder reputation and its recognition by the courts of law in India and other countries. It has argued that the acquisition of reputation depends upon the usage of a particular good or service in connection with business as the protection of reputation is embodied in the action of passing off and is as such different from goodwill which is an asset, thereby, protected by law itself.

*'IP Case Law Studies'*<sup>74</sup> is an experimental column on case law development that examines a few interesting cases with emphasis on how principles of law are applied to each individual case.

*'The Requirement of Graphical Representability for Non-Conventional Trademarks'*<sup>75</sup> has argued for evolving new methods of legal protection for non-conventional trademarks like sound, smell and colour.

*'An Analysis of the Theory of Contributory Infringement'*<sup>76</sup> has discussed contributory negligence in the light of *M G M v Grokster*<sup>77</sup> decision, and has also compared the decisions in *Sony* and *Napster* cases to highlight the contradiction in the approach of the US Supreme court.

*'IPR, Plagiarism and the Text Data Security Pyramid'*<sup>78</sup> has argued for the need of restricting the acts of plagiarism in order to maintain the sanctity of the existing work. Paper has also discussed the predominant practices followed for data protection and modern methods of communication.

*'Intellectual Property Management System: An Organizational Perspective'*<sup>79</sup> has evaluated the role

of Intellectual Property Management System (IPMS) in building organizational capabilities to achieve sustainable competitive advantage. Paper has also discussed the case of an Indian academic institute, where IPMS helped in building organizational capabilities.

*'Block Me Not: How "Essential" are Patented Genes'*,<sup>80</sup> has discussed the blocking concerns in patented genes and has thoroughly answered the question 'how essential are patented genes'.

*'IP Case Law Developments'*,<sup>81</sup> is an experimental column on case law development that examines cases with emphasis on how principles of law are applied to each individual case.

*'The Protection of Confidential Information'*,<sup>82</sup> has discussed the ways in which the confidential information may be protected and the associated problems can be addressed. Paper has also covered the protection of confidential information under two broad categories: (i) protection in the employment situation, and (ii) protection when dealing with third parties.

*'Legal Protection of Trade Secrets: Towards a Codified Regime'*,<sup>83</sup> has covered the ambiguity of the common law remedy that is available for infringement of trade secrets, and has also covered India's obligation under TRIPS to legislate on the question of undisclosed information. Paper has suggested for a codified regime.

*'Comparative Advertising and Product Disparagement vis-à-vis Trademark Law'*,<sup>84</sup> has analyzed the trite law on comparative advertising and product disparagement, in relation to trademark law in the light of the provisions of The Trademarks Act, 1999.

*'Protection of Celebrity Rights – The Problems and the Solutions'*,<sup>85</sup> has highlighted the absence of specific regulatory mechanism to address the issues relating to the protection of celebrity rights like personality/moral rights, privacy rights & the publicity/merchandising right. Paper has identified the approaches in this regard and their merits and demerits.

*'Bootlegging – Its Impact on Sound Recording Industry and Legal Responses'*,<sup>86</sup> has looked at the legal standpoint on unauthorized recordings of unfixed performances in the conflicting scenario existing due to the aforementioned stipulations.

*'Impacts of a Patent on Euryale ferox on Biodiversity at Micro Level: A Case Study'*,<sup>87</sup> has

studied the impact of patent on biodiversity at micro level and has suggested for people's awareness and further research in the area for better understanding.

*'IP Case Law Developments'*,<sup>88</sup> is an experimental column on case law development that examines a few interesting cases with emphasis on how principles of law are applied to each individual case.

First paper on the theme *IP Case Law Studies* published in 11 (4) (2006) was changed to *IP Case Law Developments* from 11 (5) (2006). In this Volume, 6 articles covered the area of patent; 2 articles on trade secrets; 3 articles each on trademarks and case law studies; 2 articles each on copyright and IPRs generally; 1 article each on human rights and IP; global counterfeiting; TRIPS; GI; IP securitization; data protection; indigenous culture; databases; IP accounting; plant variety protection; transborder reputation; contributory infringement; data security; IP management system; confidential information; celebrity rights; and sound recording.

#### **JIPR in the Year 2007**

A total of 44 articles were published in total 6 Issues of Volume 12 of *JIPR*. 18 foreign authors contributed their papers in this Volume, namely: Peter Whittaker, Johanna Gibson, Shawn H E Harmon (*his place is not mentioned*) and Gwilym Roberts (UK); Sara Boettiger, Alan Bennett, Stanley Kowalski, HopeShand, Kathy JoWetter, William O Hennessey, Thomas GField Jr and Robert HRines (USA); Cynthia Cannady and Marisol Iglesias Vega (Switzerland); MrinaliniKochupillai (New York); Matthew A Smith (Washington); SamiraGuennif (France); and AlthafMarsoof (Sri Lanka). Total number of Indian contributors to this Volume is 38 with 5 articles by Zakir Thomas. 13 articles were joint publications and 31 articles were published under single author name. One article '*TRIPS Plus Agreements and Issues in Access to Medicines in Developing Countries*' by an Indian author N Lalitha (India) in co-authorship with a foreign author named SamiraGuennif (France) was published in this Volume. In this article, the name of the Indian author is not mentioned in the *JIPR* webpage but is mentioned in the article. The articles published in Issues 12(1), 12(2), 12(3) and 12(4) are not mentioned in order.

*'Patenting in the Emerging Fields of Technology'*,<sup>89</sup> has analyzed the provisions of The Patents Act, 1970 as amended up to 2005 especially the procedure provided for the protection of

inventions in the emerging fields of technologies such as biotechnology, bioinformatics, agricultural biotechnology, computer related inventions, communication, nanotechnology, etc.

*'Human Embryonic Stem Cell Patents: A European Perspective'*,<sup>90</sup> has discussed the aspects of patenting of stem cell processes and products with particular emphasis on human embryonic stem cells. It has also highlighted the ethical exclusion clauses in the European Patent Convention and the European Biotechnology Directive that have resulted in protracted delays in the processing of embryonic stem cell patents by the European Patent Office.

*'The Discovery of Invention: Gene Patents and the Question of Patentability'*,<sup>91</sup> has discussed the problematic scope of so-called gene patents and has identified the factors, both within the legal framework and in terms of the socio-economic policies underpinning IP that support a restricted purpose-bound approach to patent protection of gene sequences. Paper argues that such an approach demonstrates the critical nexus between the inventiveness of such technology and its use.

*'Patenting of Genetic Inventions'*,<sup>92</sup> has discussed the issues relating to patentable genetic inventions in the light of the criteria of patentability such as novelty, non-obviousness, utility, enablement and sufficiency of disclosure.

*'Genomics and IP: An Overview'*,<sup>93</sup> has attempted to map the high throughput genomic technologies along with their attendant databases and analysis tools.

*'Biotech Innovation and Patenting in the Developing World: China – A Giant Among Nations?'*,<sup>94</sup> has analyzed the claim “patent rights promote invention” within the context of the developing world and healthcare settings.

*'PIPRA: A Resource for Collaborative Intellectual Property Management in Agriculture'*,<sup>95</sup> has discussed the growing concerns about how best to encourage the development and distribution of technologies that benefit developing countries within this new and rapidly changing landscape of IPRs. Paper has also discussed the role of Public Intellectual Property Resource for Agriculture (PIPRA) and the issues that it addresses in the area of agriculture by mobilizing collaborative support of a wide range of public sector institutions worldwide.

*'Rational Risk/Benefit Analysis of Genetically Modified Crops'*,<sup>96</sup> has argued that the regulation of Genetically Modified Crops (GMCs) should move

away from a process/method focus to a product risk/benefit analysis—a case-by-case evaluation of any new organism, regardless of as to how it was developed, or if it even was the product of biotechnology. Paper also suggests that a rationally based, risk assessment, risk management paradigm appears to be a far better regulatory approach, especially in the light of empirical determination of actual risks and benefits.

*'Diagnostic Method Patent Model Patent Incentives and Socio-Ethical Concerns'*,<sup>97</sup> has highlighted the exclusion of medical methods from the scope of patentability by most countries. Paper expounds the law relating to patentability of diagnostic methods by comparing the patent law of different jurisdictions to suggest a diagnostic method patent model for India.

*'Trends in Intellectual Property and Nanotechnology: Implications'*,<sup>98</sup> has highlighted the TRIPS provisions to accommodate nanotechnology-related inventions, and also the issues in the nanotech revolution that the same is highly restricted by tollbooths, obliging them to pay royalties and licensing fees to gain access.

*'What's New? Innovating the Teaching of Innovation Law'*,<sup>99</sup> has reviewed the efforts to create a replicable model for teaching IP and innovation law based upon two decades of building and teaching such a curriculum in the United States to law students, scientists and engineers, business managers, and government officials.

*'Patent Systems: More Easily Faulted Than Fixed'*,<sup>100</sup> has discussed the US patent system analysing the reactions of the US Congress and Supreme Court to allegedly new problems caused by so-called patent thickets and patent trolls.

*'R&D Networks and Intellectual Property Hubs: A Strategy for Developing Countries to Participate in Knowledge led Growth'*,<sup>101</sup> has identified the challenges experienced by developing countries as they seek to use their universities and research institutions to participate in knowledge led economic growth, which two drivers are defined as R&D investment and IP infrastructure.

*'Patent Valuation with Consideration for Emerging Technologies'*,<sup>102</sup> has explained the traditional methods of patent valuation including the standard preparation work and various models that can be applied to arrive at an estimate. Article has also evaluated the drawbacks of these approaches and informatics-based relative valuations, and discussed the application of

these methods in the various contexts of emerging technologies.

*'What is in a Name?: Viewing Patent Infringement through the Prism of Anglo-American Doctrines'*,<sup>103</sup> has explored the issues in the context of emerging technologies like biotech, with the help of decisions of the US and the UK.

*'IPR, Law and FLOSS: Building a Protected Common'*<sup>104</sup> has provided an overview of the copyright and the patents as they apply to software, and how open source depends on and uses some aspects of the IPR system for its existence, but may be threatened by others. Paper has also examined the incentives to release software as open source under different legal instruments, and compares impact of legal frameworks for open source on innovation to traditional frameworks such as patenting.

*'Should India and Other Countries Adopt the American 'Business Methods' Class of Patents?'*<sup>105</sup> is a two-page opinion piece.

*'Is the Future of Software Development in Open Source'*,<sup>106</sup> has argued that the notion that 'open-source software is "free" and free from intellectual property protection clutches' is a myth when taking into account the percentage of proprietary software usage all over the world. Paper substantiates that the neutrality of government promotes innovation and development rather than supporting a particular model through a cross-country analysis of Europe, Brazil, China and India.

*'Rationale and Prospects of the Protection of Geographical Indication: An Inquiry'*,<sup>107</sup> covers the rationale and history of legal recognition of GI and also traces legal justification to recognize GI as an IP. Paper also critically examines the existing legal regime on GI and scrutinizes the additional protection clause under Article 23 of TRIPS.

*'Intellectual Property and Competition Laws: Jural Correlatives'*,<sup>108</sup> has argued that the balance between the dynamic and static goals of IP law and competition law can be met with by means of a deeper analysis of the way their 'courtship' operates. Paper also highlights that the patent thickets and mergers are examples of situations where monopoly granted by IP may be misused, and suggests that Essential Facilities Doctrine may be used to solve issues arising out of the inter play between these two facets of law. And IP must reasonably be subject to competition laws to the extent of preventing misuse of the temporary monopoly.

*'A Study of Indian and US Trademark Law Relating to the Effect of 'Non-Use' of a Trademark'*,<sup>109</sup> has surveyed the operation of user requirements and the effect of non-use of trademarks in USA and India and examines what constitutes 'use' of a trademark and then also examines non-use and its effects. Paper has briefly examined the position laid down in the Paris Convention and TRIPS Agreement with regard to the issue of non-use. It has also highlighted that the legal position regarding the issue is pretty much settled in USA, India is still at the nascent stages of development of relevant law.

*'Changing Dynamics of the Patent Regime: An Economic Understanding'*,<sup>110</sup> has analyzed the economic rationales behind the law of patent infringement. It has further discussed the issues primarily from the aspect of economic theories, which founded the patent regime and the laws as regards infringement claims.

*'IP Case Law Developments'*,<sup>111</sup> is an experimental column on case law developments, which has examined judicial decisions with emphasis on how principles of law are applied to each individual IP case.

*'Balance of Competition and Intellectual Property Laws in the Indian Pharmaceutical Sector'*,<sup>112</sup> has addressed the questions relating to balance between the IPRs regime and the competition law in India comparing with the international standard.

*'Copyleft: An Alternative to Copyright in Computer Software and Beyond'*,<sup>113</sup> has examined the intricacies of copyleft licenses, focusing in detail upon the criticisms levelled against it by proponents of proprietary software (essentially, business versus liberty argument), as well as contrasting it with open source software, another crusader in the war against established copyright law.

*'Doctrine of Equivalents: Scope & Limitations'*,<sup>114</sup> has analyzed the scope of the doctrine of equivalents in the light of the different tests and legal bars, developed by the courts. Paper has also commented upon the problems associated with the doctrine and the significant changes brought about to it, by the landmark judgment of the Supreme Court of United States in *Festo Corp v Shokeetsu Kinzoku Kogyo Kabushiki Co Ltd*.<sup>115</sup>

*'Managing Intellectual Property Rights for Better Transfer and Commercialization of Agricultural Technologies'*,<sup>116</sup> has discussed the various options for licensing of agricultural technologies and incentive schemes for innovation related researches.

*'The Current Indian Patent Regime and the Scope of Protection in Agricultural Biotechnology: Some Issues and Considerations'*,<sup>117</sup> has covered the patentable subject matter in the field of agricultural biotechnology and identifies future needs in IP management in the country. Paper has also analyzed the patent applications filed in the area of agricultural biotechnology since 1995 while discussing some of the patents granted in the area.

*'IP Case Law Developments'*,<sup>118</sup> is an experimental column and has discussed the reported decisions to make the readers understand how the Courts have applied IP laws to decide IP cases.

*'Plant Variety Protection and Food Security: Lessons for Developing Countries'*,<sup>119</sup> has argued for policy decisions to deal effectively with the possible implications of Plant Variety Protection (PVP) legislations on agriculture, particularly, on food security.

*'Parallel Imports in the Pharmaceutical Sector: Must India be More Liberal?'*,<sup>120</sup> has argued for a nuanced policy recommendation harmonizing the financial interests of IP owners with those of securing easier availability of key products.

*'Application of Doctrine of Equivalents in Patent Infringement Disputes'*,<sup>121</sup> has examined certain limitations on the applicability of the doctrine of equivalents in the light of the decisions of the Indian, US, European and Japanese courts. Paper has also argued for formulating the basic parameters and principles pertaining to doctrine of equivalents in patent claim infringement disputes in India.

*'Protection of Databases in India: Copyright Termination Sui Generis Conception'*,<sup>122</sup> has analyzed the adequacy of protection of databases, and demonstrated that adoption of the Feist Doctrine by the Indian courts will lead to inequitable results — advocating for the adoption of a *sui generis* legislation which clearly prescribes the property rights and limitations to database creators in India.

*'IP Case Law Developments'*,<sup>123</sup> is a summary of the reported cases in 'The Patents and Trade Marks Cases' from February–March 2007, on IP law to enable the readers understand how the courts have applied principles of the law to actual IP disputes.

*'TRIPS Plus Agreements and Issues in Access to Medicines in Developing Countries'*,<sup>124</sup> is an article published in co-authorship with an Indian author. The name of the Indian author is not mentioned on the web page of the journal but is mentioned in the article. This

article has discussed the flexibilities under the WTO Agreement to safeguard public health priorities.

*'Recording that Different Version – An Indian Raga'*,<sup>125</sup> has discussed the law relating to version recording rights, in the light of the contemporary trends in the Indian music industry.

*'Anton Piller Order in UK and its Possible Implications in India'*,<sup>126</sup> has discussed the rights and obligations of the parties, risks associated with it and the possible solutions, in perspective of the IPRs infringement cases.

*'The Registrability of Unconventional Trademarks in India and Sri Lanka: A Comparative Analysis'*,<sup>127</sup> is an article written by a foreign author. This paper has examined the current legal provisions relating to trademarks in India and Sri Lanka and determines registrability of unconventional marks, with emphasis on colour, scent and sounds, within the existing legal framework. Paper also argues that IP laws of both the jurisdictions are TRIPS compliant.

*'IP Case Law Developments'*,<sup>128</sup> has discussed in detailed the *Novartis* decision decided dated 6 August 2007, one copyright case on the effect of non-payment of royalty on assignment of copyright, and one trademark case on literary titles chosen from the cases reported in April 2007 issue of 'The Patents and Trade Marks Cases'.

*'Liability of Internet Service Providers for Third Party Online Copyright Infringement: A Study of the US and Indian Laws'*,<sup>129</sup> has examined the liability of Internet Service Providers (ISPs) for copyright infringements by their subscribers, addressing a number of research questions like, what amounts to violation of copyright and rights available under copyright. Paper has also discussed the US draft law The Digital Millennium Copyright Act, 1998 (DMCA) and the case law prior to the DMCA, and proposed suggestion on the improvement of the law relating to ISP liability in India.

*'Modern Patenting – Quantity and Quality'*,<sup>130</sup> is an article written by foreign author. Article has covered the debate on quality patents.

*'A Critique of the Indian Law and Approach towards Protection of Geographical Indications with Specific Reference to Genericide'*,<sup>131</sup> has argued that lack of uniform international protection, along with inability to reach global consensus, has placed many GIs under the threat of becoming generic.

*'Keeping Cashmere in Kashmir- The Interface between GI and TK'*,<sup>132</sup> has discussed the legal issues

involved in one source of wealth in Kashmir, the famous 'pashmina' – one of the most refined forms of cashmere. Paper has examined the argument whether geographical indication is effective as the sole means of protection of traditional knowledge is also examined.

'*IP Case Law Developments*',<sup>133</sup> has summarized some of the recently reported cases on IP law. It has covered the cases reported in May and July 2007 issues of the Patents and Trade Marks Cases (PTC).

In this Volume, 10 articles covered the areas of patents; 5 articles covered IP case law developments; 2 articles each covered the areas of copyright/copyleft, IP and competition, trademarks, GI, and Doctrine of Equivalents; and 1 article each on biotech innovation, innovation law, patent valuation, genetic inventions, genomics, IP management, genetically modified crops, nanotechnology, R&D networks, software development, technology transfer, plant variety protection, pharmaceutical sector, protection of databases, access to medicines, recording, Anton Piller Order, traditional knowledge and IPRs.

#### **JIPR in the Year 2008**

A total of 52 articles were published in total 6 Issues of Volume 13 of *JIPR*. 7 foreign authors contributed their papers in this Volume, namely: Jan ABergstra and PaulKlint (Netherlands); JakkritKuanpoth (Australia); MarkPohl (USA); ShamnadBasheer (UK); D ChristopherOhly (Washington); and SrividhyaRagavan (Oklahoma). Total number of Indian contributors to this Volume is 52 with 6 articles each by Zakir Thomas and Sudhir Kochhar. 14 articles were joint publications and 38 articles were published under single author name. One article '*Exhausting Patent Rights in India: Parallel Imports and TRIPS Compliance*' by an Indian author MrinaliniKochupillai (India) in co-authorship with a ShamnadBasheer(UK) was published in this Volume. The articles published in Issue 13(4) are not mentioned in order.

'*Concept of Obviousness: Scenario post KSR International v Teleflex Inc*',<sup>134</sup> has mapped the evolution of obviousness.

'*Comparative Advertising: An Eye for an Eye Making the Consumers Blind*',<sup>135</sup> has discussed the Indian legal structure with respect to comparative advertising.

'*Facets of Technology Transfer: A Perspective of Pharmaceutical Industry*',<sup>136</sup> has identified the aspects

of the technology transfer shaping pharmaceutical industry and its research and development activities to meet the newer challenges.

'*Challenges to Copyrighable Work in Cyberspace*',<sup>137</sup> has discussed: (i) meaning of cyber space, and position of Internet related problem in India; (ii) basic challenges with respect to the intellectual property; (iii) position as to why copyright is ill-equipped to deal with Internet, along with the basic problems of copyright in regard to Internet which includes determination of public and private use and the enforcement of liability; (iv) Indian scene in regard to jurisdiction in cyberspace; and (v) future of copyright.

'*Registration of Non-Traditional Trademarks*',<sup>138</sup> has examined the registrability of different types of non-traditional trademarks in the EU and US jurisdictions. Highlighting the issue of absence of such a law dealing with non-traditional trademarks in India, article has also identified the reasons as to the question why the non-traditional trademarks might not get adequate acceptability as registered trademarks in the Indian Trademarks Registry Office.

'*Institutions and Capacity Building for the Evolution of IPR Regime in India: Protection of Plant Varieties and Farmers' Rights*',<sup>139</sup> has discussed the issues relating to The Protection of Plant Varieties and Farmers' Rights Act and argued for the building its institutional mechanism and capacity and developing and enhance linkages and working relations between the PPV&FR Authority/ Registry and Intellectual Property India as well as other nodal agencies/R&D organizations.

'*IP Case Law Developments*',<sup>140</sup> has summarized the reported cases (September and October 2007 issues of the Patents and Trade Marks Cases) on IP law to enable the readers to understand how the courts have applied the principles of IP law to actual IP disputes.

'*Reflections on the Indian Accession to the Madrid Protocol*',<sup>141</sup> has traced the evolution of Madrid System and critiqued the Madrid Protocol. Article has also analyzed the advantages and developments of the Madrid Protocol over the Madrid Agreement.

'*Trademark Issues in Digital Era*',<sup>142</sup> has discussed the issues with respect to trademarks, which have emerged as a result of the Internet or digital era. Article has also analyzed the judicial approach in cases dealing with trademark issues in the digital era.

'*Towards Patentability of Essentially Biological Processes*',<sup>143</sup> has highlighted the issue that The

Indian Patents Act excludes ‘essentially biological processes’ from patentability in order to be in conformity with Article 27 3(b) of TRIPS. Article further argues for amendments in the Act for incorporation of definition and content of the term in question distinguishing it from other similar terms like microbiological processes which have been excluded from exclusions.

‘*Small Scale Industries and IP Management: Need to Recognize Intellectual Assets*’,<sup>144</sup> has discussed the issues on the future of Small-Scale Industries (SSIs) in India in the present era of globalization and liberalization with the advent of TRIPS. It has also evaluated the role of government in making the small enterprises viable and suggests initiatives for SSIs.

‘*Patent & Food Security – Opening the Pandora’s Box*’,<sup>145</sup> has addressed some of the unresolved issues pertaining to patent and food security, the existing legislation’s shortcomings and fallacies.

‘*Institutions and Capacity Building for the Evolution of Intellectual Property Rights Regime in India: II – Ownership and Management Issues in Agricultural Research*’,<sup>146</sup> has discussed the issues related to the ownership and management concerns in IP.

‘*IP Case Law Developments*’,<sup>147</sup> has summarized the reported cases on IP law in the November and December 2007 issues of the Patents and Trade Marks Cases (PTC).

‘*Protection of Traditional Handicrafts under Indian Intellectual Property Laws*’,<sup>148</sup> has discussed the protection of collective rights and individual innovations in traditional handicrafts, in view of their importance to the cultural heritage of traditional groups native to India. Article has also discussed the inadequacies of the Indian IP laws in protecting traditional handicrafts and rewarding individual creativity by covering the initiatives taken in China and several other jurisdictions.

‘*Trade Secrets: A Secret Still to Unveil*’,<sup>149</sup> has argued for a separate statute on the trade secrets and has discussed the developments in the field of trade secrets and their legal protection in India.

‘*OpenSource Software: The Future Ahead*’,<sup>150</sup> has discussed open-source software and analyzed the manner in which it uses principles of copyright law to provide free access to software. Article has also discussed related things including the paradoxical situation whereby norms of copyright law have been used as copyleft to counter the impediments put forward by copyright law.

‘*Farmers’ Rights in Conserving Plant Biodiversity with Special Reference to North-East India*’,<sup>151</sup> has discussed The Protection of Plant Varieties and Farmers’ Rights (PVPFR) arguing that it has opened up possibilities for developing a platform for regulating breeders’ and farmers’ rights so that both are acknowledged and protected. Article has also argued that recognition of tribal laws as tribal rights *vis-à-vis* farmers’ rights will address the conflicts between customary and statutory laws and regulations related to forest ownership and natural resource use while ensuring conservation of genetic resources by the local communities of the North East.

‘*Insurance Coverage in Intellectual Property Litigation*’,<sup>152</sup> has discussed risk management and enforcement of IP arguing that the risk attached with patents is much more than any other form of IP.

‘*Institutions and Capacity Building for the Evolution of Intellectual Property Rights Regime in India: III– Conformity and Enforcement Issues*’,<sup>153</sup> has analyzed and assessed the conformity of The Plant Varieties and Farmers’ Rights Act, 2001 with the international agreements, treaties and conventions, and their enforcement in the country.

‘*IP Case Law Developments*’,<sup>154</sup> has summarized the reported IP cases from the January 2008 issue of the Patents and Trade Marks Cases (PTC) to enable the readers to understand how the courts have applied the principles of IP law to actual IP disputes.

‘*The Software Invention Cube: A Classification Scheme for Software Inventions*’,<sup>155</sup> is a sequel to the paper published in *Science of Computer Programming*, 16 (3) (2007). This article has discussed the notion of invention in the realm of software — and moving to the legal and other aspects of this notion.

‘*Battling with TRIPS: Emerging Firm Strategies of Indian Pharmaceutical Industry Post-TRIPS*’,<sup>156</sup> has examined the emerging firm strategies of the Indian pharmaceutical companies to overcome the challenge posed by new patent regime.

‘*India: IPR and the National Security*’,<sup>157</sup> has highlighted the IPRs issues related to defense and national security. Article has argued that India may have to act against the piracy and crack down on IP theft as part of response to the new set of national security challenges.

‘*Intellectual Property Rights, Traditional Knowledge and Biodiversity of India*’,<sup>158</sup> has discussed some of the issues relating to

implementation of The Biological Diversity Act, 2002, such as “benefit sharing”.

*Institutions and Capacity Building for the Evolution of Intellectual Property Rights Regime in India: IV– Identification and Disclosure of IP Products for their IPR Protection in Plants and Animals*,<sup>159</sup> has analyzed a possible dual protection of indigenous plants and animals including farmers’ varieties under the *sui generis* IPR protection as varieties/breeds on the one hand, and the geographical indications on the other hand.

*IP Case Law Developments*,<sup>160</sup> has summarized the reported IP cases (March 2008 issue of the Patents and Trade Marks Cases) to understand how the courts have applied the principles of IP law to actual IP disputes.

*Patent Infringement: How to Minimize the Risk*,<sup>161</sup> has discussed the question what measures should be taken to minimize the risk factor associated with the patent infringement issues?

*TRIPS Agreement and Public Health: An Overview of International Issues*,<sup>162</sup> has discussed the developments of international provisions on IPR related to public health, reason for the Doha Declaration, and the flexibilities before and after TRIPS Agreement. Article has also discussed the inadequacy in the compulsory license-based approach to solve public health crisis and argued for a more comprehensive approach to find a long-term solution to the public health issues.

*Doha Declaration and Public Health Issues*,<sup>163</sup> has discussed the questions concerning public health posed before the developing and least developing countries while adhering to TRIPS.

*Indian Patent Law in the post-TRIPS Decade: S&T Policy Appraisal*,<sup>164</sup> has discussed the objectives of the patent law and has argued that consequent to India joining the WTO in 1995, the Patents Act has been made TRIPS compliant, and a first level S&T appraisal of the post-TRIPS decade seems to indicate that major policy initiatives are needed to retain the past gains and to put the nation-building process truly on the forward path, failing which the existing ‘knowledge barriers’ may become even wider beyond our scientific-technological capabilities.

*Transcending Differences: The Challenge for Pharmaceuticals in the Post-TRIPS Indian Patent Regime*,<sup>165</sup> has discussed issues related to Section 3(d) of the Indian Patents Act in relation to pharmaceuticals.

*Impact of TRIPS on Indian Pharmaceutical Industry*,<sup>166</sup> has discussed the significance of IPR regime on pharmaceutical industry in India in light of the amendments to the Patents Act in 1999, 2002 and 2005. It has also analyzed the impact of post-TRIPS scenario in Indian pharmaceutical industry with specific reference to the international operations and the regulatory interfaces.

*Data Exclusivity Provisions in India: Impact on Public Health*,<sup>167</sup> has discussed India’s position on ‘data exclusivity’ with respect to other countries of the world.

*Appropriate Patent Rules in Developing Countries - Some Deliberations Based on Thai Legislation*,<sup>168</sup> has discussed the implication of TRIPS and the Thai Patent Act on the pharmaceutical sector and on the patients in Thailand.

*Compromising TRIPS: Brazil’s Approach to Tackle the HIV/AIDS Imbroglio*,<sup>169</sup> has discussed the compulsory licenses provisions under Articles 30, 31 of TRIPS as well as Para 6 of the DOHA Declaration of 2001 in view of the HIV/AIDS drugs which are not available at affordable prices to millions of patients living in African, Latin American and South East Asian countries. Article has also discussed the strategies adopted by one such affected country, Brazil.

*Compulsory Licensing under Section 92A: Issues and Concerns*,<sup>170</sup> has discussed the compulsory licensing under Section 92A of the Indian Patents Act enabling exportation of patented drugs in reference to *Natco v Pfizer*, in light of issue of patents v patients.

*How to Control the United States Pharmaceutical API Market Using Patents on New Synthetic Intermediate Compounds*,<sup>171</sup> has reviewed the US patent law and examined several actual case studies under this law, and provides a check list of characteristics useful to identify the most valuable Active Pharmaceutical Ingredients (API) manufacturing opportunities.

*Transplanting Bayh-Dole Act- Issues at Stake*,<sup>172</sup> has discussed the issue of public funded research and its direction in terms of protection. It has also traced the background of Bayh-Dole Act in US, its impact in the last two decades, its appropriateness in the Indian scenario and critical issues involved with such efforts to transplant.

*Exhausting Patent Rights in India: Parallel Imports and TRIPS Compliance*,<sup>173</sup> has discussed and highlighted Section 107A(b) of the Patents Act which

has thus far not attracted the attention it deserves. It has explored the ambiguities inherent in this section, discussed the gaps in the Indian law pertaining to exhaustion and parallel imports, and suggested amendments to the Section.

‘What’s ‘New’? - Isn’t it Obvious?’<sup>174</sup> has discussed Section 3(d) of the Indian Patents Act in the light of TRIPS Agreement.

‘*Traditional Knowledge, Intellectual Property Rights and Biodiversity Conservation: Critical Issues and Key Challenges*’,<sup>175</sup> has examined the IP laws relating to traditional knowledge and has argued for *sui generis* legislations for protection of traditional knowledge.

‘*New Paradigms for Protection of Biodiversity*’,<sup>176</sup> has argued that ‘bioprospecting ventures are important tools for developing countries. Countries like India and organizations like TBGRI should learn from their failures and take leadership roles to evolve techniques to maximize returns by using biodiversity resources’.

‘*Legal Issues in Branding Medicinal Products*’,<sup>177</sup> has examined the trademark decisions, practices, and analyzed the legal issues relating to drug branding.

‘*Institutions and Capacity Building for the Evolution of Intellectual Property Rights Regime in India: V – Analysis of Review of TRIPS Agreement and R&D Prospect in Indian Agriculture under IPR Regime*’,<sup>178</sup> has discussed TRIPS Agreement in relation to patentability of bioresources and its harmonization with access and benefit sharing regime, and also the R&D prospect in Indian agriculture under IPR regime.

‘*Intellectual Property Taxation: Need for a Comprehensive Policy and Law in India*’,<sup>179</sup> has argued that the lack of a comprehensive policy on IP taxation acts as a disincentive to technology transfer and IP creation in India.

‘*Protecting Performers’ Rights: Does India Need Law Reform?*’,<sup>180</sup> has discussed the terminology of the jurisprudence of performers’ rights and has compared American, English and international performer protection regimes to existing Indian law. It has suggested for reform in the nature of *sui generis* protection for performers’ rights in India is essential.

‘*Insight into the Nature of Offence of Copyright Infringement*’,<sup>181</sup> has discussed the judicial decisions dealing with the interpretation of offence of copyright infringement under Section 63 of the Copyright Act, 1957 in the light of two conflicting decisions of the

Andhra Pradesh High Court and the Kerala High Court on the same matter.

‘*Practical Insights into Intellectual Property Strategy for a Technical Institute*’,<sup>182</sup> has discussed the issues of techno-legal management of IP in a technical institute. Article has also suggested a framework to guide IP policy and management in a technical institute.

‘*Analysis of Patents Pertaining to Super disintegrants used in Tablet Manufacturing*’,<sup>183</sup> has analyzed the patents granted on super disintegrants using various criteria such as patenting trends over the years, country wise distribution and different classes of super disintegrants.

‘*Institutions and Capacity Building for the Evolution of Intellectual Property Rights Regime in India: VI – Obligations and Opportunities in Handling Plant Varieties and Agricultural Biotechnology*’,<sup>184</sup> has discussed the concerns of equity and biosafety and has argued for suitable remedial measures.

‘*IP Case Law Developments*’,<sup>185</sup> has summarized the reported cases on IP law — one on trademark law, and another on patent law.

In this Volume, 12 articles covered the area of patent law; 6 articles on Indian IPRs regime; 5 on TRIPS; 3 articles each on IP case law developments, traditional knowledge and biodiversity; 2 articles each on copyright and trademark; 1 article each on comparative advertising, technology transfer, Madrid Protocol, IP management, traditional handicrafts, trade secrets, Open-Source software, farmers’ rights, IP litigation, software invention, IPR and national security, IP case law development, Doha Declaration, data exclusivity, compulsory licensing, IP taxation, performers’ rights, and IP strategy.

#### **JIPR in the Year 2009**

A total of 41 articles were published in total 6 Issues of Volume 14 of JIPR. 3 foreign authors contributed their papers in this Volume, namely: Antonio Hidalgo (Spain), Mohammad Reza Parvin (Iran) and Wenqi Liu (Hangzhou). Total number of Indian contributors to this Volume is 52 with 5 articles by M D Nair, 4 articles by Zakir Thomas and 2 articles by V K Gupta. 13 articles were joint publications and 28 articles were published under single author name. No article by any Indian author in co-authorship with a foreign author was published in this Volume. The articles published in Issues 14(1) and 14(2) are not mentioned in order.

'*Basics of Writing Patent Non-Infringement and Freedom-to-Operate Opinions*',<sup>186</sup> has discussed the non-infringement and freedom-to-operate (FTO) opinions. Article has highlighted the similarities and differences in the basics of writing both the opinions.

'*Parallel Imports and Trademark Law*',<sup>187</sup> has discussed the principle of exhaustion as a counter measure against stifling effect of trademark territoriality. Article has discussed the rules regulating the parallel importation in the United States and the European Union followed by the Indian position.

'*Methodology of Claim Construction after Phillips v AWH Corp: The Need for an Alternative Approach*',<sup>188</sup> has critically analyzed decision of the Federal Circuit in *Phillips v AWH Corp*,<sup>189</sup> an *en banc* decision, and has traced the evolution of principles of claim construction as applied in the USA.

'*Bioinformatics: Scope of Intellectual Property Protection*',<sup>190</sup> has examined the trend of growth in the field of bioinformatics and has analysed the factors which necessitate contemplation of applying IPR.

'*Currency Patents - The Anticipated Bust of an Economy*',<sup>191</sup> has highlighted why exactly an economic breakdown can occur because of currency patents. Article has attempted to bring out the possible impact of patents held on various components of currencies — 'currency patents' on the value and operation of the currencies in which they are incorporated.

'*Analysis of the Commercial Use of Spanish Inventions Protected by Patents between 1996 and 2006*',<sup>192</sup> has identified and analyzed the level of commercialization of Spanish patents granted by the Spanish Patent and Trademark Office (SPTO) during the period 1996-2006, and their rate of economic return.

'*Fashion Copying and Design of the Law*',<sup>193</sup> has discussed the existing arguments towards grant of property rights in fashion creations, including a historic perspective of the fashion industry, piracy paradox as explained by Professor Raustiala and Professor Sprigman, and the current global fashion industry. Article has also covered the development of American and European jurisprudence to propose a regime for protection of fashion creations in India.

'*Patenting Trends in Marine Bioprospecting based Pharmaceutical Sector*',<sup>194</sup> has chosen patents based on six commercially important marine organisms for the patent landscape study to demonstrate that the

pharmaceutical is the primary field of application followed by nutraceuticals.

'*Patenting of Internet and e-Commerce: An International View*',<sup>195</sup> has highlighted the increase in the desire to protect software-related inventions. Article has also discussed the decisions of the US courts relating to the e-commerce patenting.

'*Patent Activity by Patent Agents in India*',<sup>196</sup> has analyzed the activity of patent agents' to determine the extent and type of patent activity taking place in the country.

'*Trends in IT Patents filed from India: An Analysis*',<sup>197</sup> has analyzed the trends in patents filed/owned from India in the area of information technology (IT). Article highlights that among government institutes and public sector industry CSIR emerged as leading patent owner/filer.

'*IP Case Law Developments*',<sup>198</sup> has summarized the reported cases on IP law to enable readers to understand how the courts have applied principles of IP law to actual IP disputes.

'*Indian Patents Output in Nanotechnology*',<sup>199</sup> is a technical note and has analyzed the Indian contributions in the field of nanotechnology as reflected in the patents output.

'*TRIPS, WTO and IPR - Impact on Developing Countries*',<sup>200</sup> is an opinion column on the issues of 'WTO, TRIPS and IPR', a new head started by *JIPR* from this Issue *i.e.*, 14 (2) (2009) and it was published regularly in Volume 14.

'*Patentability of Plants: Technical and Legal Aspects*',<sup>201</sup> has discussed the patentability of plants in view of Article 27.3(b) of TRIPS considering the alternative protection system. Article has also assessed the possibilities of the current patent laws and legal positions adopted by jurisprudence or doctrine particularly in the field of transgenic and hybrid plants.

'*The Role of Collective Bodies in Protection of Intellectual Property Rights in India*',<sup>202</sup> has examined the Indian IP law's policy on CBs' role in protection of IPR, their working and their impact.

'*Establishing a Safeguard System for Intellectual Property Protection for Chinese Private Enterprises*',<sup>203</sup> has explored the problems and troubles that Chinese private enterprises have encountered in the regime of IP protection, which exist in legislation, enforcement, and enterprises' management systems, and has also analyzed the

elements that impede the progress of upgrading IP protection system.

'*Generic Drug Industry in India: The Counterfeit Spin*',<sup>204</sup> has analyzed various aspects of generic and counterfeit drugs and the likely impact of the WHO definition on the Indian pharmaceutical industry. It has also critically evaluated recent seizures of shipments of generic drugs by EU under a WTO TRIPS regime based on the premise of free trade.

'*Diffusion of Climate Friendly Technologies: Can Compulsory Licensing Help?*',<sup>205</sup> has reviewed the global regimes as well as national regimes in major jurisdictions, governing use of compulsory licensing. It has also examined functional requirements and market conditions for compulsory licensing to work.

'*IP Case Law Developments*',<sup>206</sup> has summarized the reported cases on IP law to enable readers to understand how the courts have applied the principles of IP law in the IP cases.

'*TRIPS, WTO and IPR - Debate on Evergreening of Patents and IPA 2005*',<sup>207</sup> has covered the debate on evergreening of patents and IPA 2005.

'*Evergreening – A Controversial Issue in Pharma Milieu*',<sup>208</sup> has covered different aspects of 'evergreening', its impact in the pharma IP domain and identified means adopted for limiting evergreening.

'*Sufficiency of Disclosure in Patent Specification*',<sup>209</sup> has highlighted the importance of providing sufficient information in a patent specification before filing with any Patent Office. It has also analysed the sections of Indian Patents Act, 1970, pertaining to 'sufficiency of disclosure' in the light of judicial decisions, in addition to comparative analysis between Indian, US and European patent law.

'*Benefits of the London Agreement (2000) for Indian Patent Applicants*',<sup>210</sup> has discussed the effects on the European patent system and benefits for the Indian patent applicants on account of the implementation of the London Agreement (the Agreement on the application of Article 65 of the Convention on the grant of European patents).

'*Striking a Balance between Liability of Internet Service Providers and Protection of Copyright over the Internet: A Need of the Hour*',<sup>211</sup> has comprehensively analyzed the prevailing legislative

approaches towards issue related to two in India and has identified the loopholes in the present legal framework. It has suggested for establishing a clear and specific 'safe harbour protection' for the ISPs in India by incorporating notice takedown procedures, implementing standard technical measures and by appropriate categorization of ISPs.

'*Intellectual Property Protection at Border*',<sup>212</sup> has analyzed the protection of IPRs under the customs laws and IPRs legislation, and has also covered the global perspectives and the new Customs Rules of 2007.

'*Challenges in Creation and Management of Knowledge Capital in Technical Educational Institutions*',<sup>213</sup> has examined some of the challenges faced in IP creation for India and has suggested approach to effectively manage the knowledge capital. It has assessed and identified issues in the creation of IP in technical institutions, and suggested appropriate measures to address these issues.

'*TRIPS, WTO and IPR - How Effective is the Dispute Settlement Process?*',<sup>214</sup> has discussed the effects of dispute settlement process.

'*Section 3(d): 'New' Indian Perspective*',<sup>215</sup> has examined Section 3(d) of the Patents Act, 1970 from the practical point of view.

'*Trademark Licensing & Franchising: Trends in Transfer of Rights*',<sup>216</sup> has analyzed the Trademarks Act, 1999 and the Trademarks Act 1958. Article has suggested that a trademark owner should avoid an exclusive license because it may be read as an assignment.

'*The TRIPS Article 23 Extension Stalemate Continues: A Way-Ahead for the Developing Countries*',<sup>217</sup> has examined the provisions of TRIPS Agreement regarding GIs and utilizes the submissions made to the TRIPS Councils to critically analyse the issue of Article 23 extension in the background of North-South face-off. Article has also evaluated the possibility of higher protection in addressing distinctive circumstances confronted by the developing countries.

'*Patent Specification: Engineering the Technical Output of Novel Invention*',<sup>218</sup> has described the patent statutes and the practice that may be regarded as guidelines to disclose an invention in a patent specification.

'*Impact of Patents on Indian Pharma Industry's Growth and Competency: A Viewpoint of*

*Pharmaceutical Companies in India*,<sup>219</sup> has attempted to identify how Indian pharmaceutical companies view product patent regime, hindering the growth of industry or providing impetus to R&D. Article has also analyzed the measures taken by companies to survive and grow in product patent regime.

*IP Case Law Developments*,<sup>220</sup> has summarized the reported cases on IP law to help the readers understand how the Courts have applied the principles of IP law in IP cases.

*TRIPS, WTO and IPR – DOHA Round & Public Health*,<sup>221</sup> has discussed the Doha Round along with Seventh Inter-Ministerial Conference.

*War on Words in Cyberspace- Legal Constraints and Conflicts between Rights of Privacy and Freedom of Speech*,<sup>222</sup> has discussed the related issues and also discuss the legal implications on the encroachment of the freedom of speech.

*Implications of Drug Price Competition and Patent Term Restoration Act (DPCPTRA) on Indian Pharma Industry*,<sup>223</sup> has reported the first-time generic drugs approved by FDA during 2004–2008 and the number of Abbreviated New Drug Applications receiving 180-day exclusivities as well as the impact of The Drug Price Competition and Patent Term Restoration Act on the Indian pharma industry.

*Importance of Assignment Agreements under Intellectual Property Laws in India*,<sup>224</sup> has explained the assignment agreements in general terms as well as the essential requirements for assignment agreements under the Indian Contract Act, 1872,<sup>225</sup> and the Indian Stamp Act, 1899.<sup>226</sup> Article has discussed in detail the sections pertaining to assignment agreements in the legislations on IP law in India, along with: (i) providing information regarding the forms through which assignment of the IP can be registered, (ii) The Madrid Protocol, and (iii) the rules regarding assignment of trademarks in the international forum.

*Indian Perspective of Fair Dealing under Copyright Law: Lex Lata or Lex Ferenda?*,<sup>227</sup> has explored the historical roots of copyright law and fair dealing in India, its *raison d'être*, the statutory and the judicial treatment of the concept. Article has also discussed the attitude of the Indian judiciary to the defence of fair dealing, in the light of American jurisprudence.

*IP Case Law Developments*,<sup>228</sup> has summarized the reported cases on IP law (copyright and patent

laws) to enable readers to understand how the Courts have applied the principles of IP law to actual IP disputes.

*TRIPS, WTO and IPR - How Far Have We Gone With the DOHA Round?*,<sup>229</sup> has discussed how far the WTO Member countries have gone with the Doha Round.

In this Volume, 15 articles covered the areas of patent law; 6 articles on TRIPS, WTO, Doha Round; 4 articles on IP case law development; 3 on IPRs, 2 each on copyright and trademarks; and 1 article each on bioinformatics, design, generic drug, compulsory licensing, evergreening, management of knowledge capital, cyberspace, assignment agreements under IP laws, and pharma industry.

In total, in this decade, *JIPR* has published 5 volumes, 30 issues, and 220 articles. These 220 articles include 1 address of a Governor reprinted at the inauguration of the National Symposium on Intellectual Property Rights. 58 Foreign scholars from 17 different countries (Australia, Belgium, China, France, Germany, Iran, Korea, Netherlands, New Zealand, Philippines, Portugal, Spain, Sri Lanka, Switzerland, Taiwan, UK, and USA) contributed their 52 articles to *JIPR*. A total of 225 Indian authors contributed their articles in this decade. Most number of articles published by any foreign author in this decade is 3, by Shamnad Basheer from UK.

67 co-authored articles and 153 single authored articles were published. 2 articles by Indian authors in co-authorship with any foreign author were published in this decade. Most number of articles in this decade covered the area of patent law, which was 25% (twenty-five per cent) of the total articles published in this decade (Table 1).

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

In this decade, the heads 'Contents' 'Literature Review' and 'IPR News' were followed without any break. From Volume 11 (6) a new head 'Book Review' was introduced which was also followed in the last issue of each volume during this decade. But none of the heads can be accessed on the journal's page. But it was expected that the 'IPR News' head should have been updated covering the recent developments in the area year-wise.

From Volume 14 (2), one opinion piece on the issues of 'WTO, TRIPS and IPR', was published regularly till its last Issue.

Table 1 — Research papers published in *JIPR* (2005–2009)

Volume	Total issues	Total papers	Reprinted papers/ address/ reports	Foreign authors/ Country/ articles	Indian authors	Joint publications	Papers by sole author	Papers by Indian authors in co-authorship with foreign authors	Areas of IP covered (Number of papers)
10 (2005)	6	46	1	1/ Switzerland, Germany, Taiwan, Belgium, Auckland, Greece, UK, Portugal, Spain, Netherlands and Philippines, 5/ USA, & Korea and Geneva/ 2	46	15	31	—*	Copyright (2); Innovation (2); Patent/Biotechnology (13); Data Privacy (1); Trademark (2); Internet Remedies (1); IP Licensing (1); Public Research Results (1); Technology Transfer/Licensing (5); CSIR (1); Nanotechnology (1); Agricultural Resources (1); Biodiversity and Associated Traditional Knowledge (1); Integrated Circuits (1); Trade Dress (1); Non-traditional areas of IP (1); IPRs/Research (7)
11 (2006)	6	37	—	4/ UK, 1/ Australia, New Zealand and Italy, 3/ China & USA/ 2	37	12	25	—	Copyright (2); Patent (6); Human Rights and IP (1); Global Counterfeiting (1); IPRs (2); TRIPS (1); Geographical Indications (2); IP Securitization (1); Data Protection (1); Indigenous Culture (1); Databases (1); Trade Secrets (2); Trade Dress (1); IP Accounting (1); Trademarks (3); Plant Variety Protection (1); Transborder Reputation (1); Case Law Studies (3); Contributory Infringement (1); Data Security (1); IP Management System (1); Confidential Information (1); Celebrity Rights (1); Sound Recording (1)
12 (2007)	6	44	—	4/UK, 10/ USA, 2/ Switzerland, and France & Sri Lanka/ 1	38	13	31	1	Copyright/Copyleft (2); Biotech Innovation (1); Innovation Law (1); Patent (10); Patent Valuation (1); Genetic Inventions (1); Genomics (1); IP Management (1); Genetically Modified Crops (1); Nanotechnology (1); R&D Networks (1); Software Development (1); Geographical Indication (2); IP and Competition (2); IP Case Law Developments (5); Trademarks (2); Doctrine of Equivalents (2); Technology Transfer (1); Plant Variety Protection (1); Pharmaceutical Sector (1); Protection of Databases (1); Access to Medicines (1); Recording (1); Anton Piller Order (1); Traditional Knowledge (1); IPRs (1)
13 (2008)	6	52	—	2/ Netherlands, 3/ USA, & Australia and UK/ 1	52	14	38	1	Copyright (2); Patent (12); Comparative Advertising (1); Technology Transfer (1); Trademark (2); Indian IPR Regime (6); IP Case Law Developments (3); Madrid Protocol (1); IP Management (1); Traditional Handicrafts (1); Trade Secrets (1); Open-Source Software (1); Farmers' Rights (1); IP Litigation (1); Software Invention (1); TRIPS (5); IPR and National Security (1); Traditional Knowledge and Biodiversity (3); IP Case Law Development (2); Doha Declaration (1); Data Exclusivity (1); Compulsory Licensing (1); IP Taxation (1); Performers' Rights (1); IP Strategy (1)

(Contd.)

Table 1 — Research papers published in <i>JIPR</i> (2005–2009) ( <i>Contd.</i> )									
Volume	Total issues	Total papers	Reprinted papers/ address/ reports	Foreign authors/ Country/ articles	Indian authors	Joint publications	Papers by sole author	Papers by authors in co-authorship with foreign authors	Indian Areas of IP covered (Number of papers)
14 (2009)	6	41	—	1/ Spain, Iran and Hangzhou	52	13	28	—	Copyright (2); Patent (15); Trademarks (2); Bioinformatics (1); Design (1); IP Case Law Developments (4); TRIPS/WTO/Doha Round (6); IPRs (3); Generic Drug (1); Compulsory Licensing (1); Evergreening (1); Management of Knowledge Capital (1); Cyberspace (1); Pharma Industry (1); Assignment Agreements under IP Laws (1)

\**Em dash* (—) refers to zero (0).

## Conclusion

A review of articles published in this decade reveals that on an average, 44 articles have been published in each volume. Whereas, the average number of articles published between 1996–1999 is 17.5 (point five) and between 2000–2004 is 26.5 (point five). From 1996–2009, a total of 423 articles have been published, and of which the articles published between 2005–2009 constitute 52 percent followed by 31.2 (point two) between 2000–2004 and 16.78 (point seven eight) between 1996–1999. This decade has also witnessed a change in the publishing trend of *JIPR*. Most of the articles published in this decade are the original contributions of the authors as *JIPR* unlike the previous practice has not republished the articles. Different new approaches in IP research were well consider by *JIPR* giving an idea to the readers how the IP laws are evolved by the courts and also how the courts are applying the principles of IP laws to determine the questions of IP. The articles covering the IP issues in other jurisdictions were also published which perhaps gave a reason to the Indian readers and IP scholars to consider the Indian position on those lines.

In this decade, the several articles covered the amendments introduced to the Patents Act, 1970. The articles on the Patents Act alone constitute 25% (twenty-five per cent) of the total articles published in this decade. Knowledge is a *publici juris*. Among several things, few notable things in this decade have been the starting of a new series covering the issues relating to WTO, TRIPS and IPR on regular basis, and another one on the IP Case Law Developments to help the readers understand the principles of IP laws and how the courts have applied those principles in deciding the IP cases. In the former series, M D Nair actively contributed and in the latter series Zakir Thomas covered the reported IP decisions.

This decade is different from the previous two decades for the reasons: most number of original scholarly articles, and timely covering the legislative and judicial developments of IP laws, comparative pieces leading to different thoughts and provocations to think further and reflect upon on those areas of IP. The first decade of the twenty-first century seems to be a decade of actively IP scholarship in the country.

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