

KAFOCUS

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KAFocus is a monthly publication offering insightful perspectives on rapidly evolving intellectual property rights (IPR) regime in the jurisdiction of India and USA. While we deliver the latest IPR news, in-depth analysis, and practical knowledge to help businesses stay informed and unlock opportunities for our Japan Desk.

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LATEST NEWS

Taiwan's Tech Treasure: Japan-India Summit Unlocks Semiconductor IP Potential

The Biden-Kishida summit on 10th April 2024, while primarily focused on strategic cooperation and security, has indirect but significant implications for intellectual property (IP) development between Japan and India. The summit's outcomes set the stage for deeper technological collaboration, particularly in defence and semiconductor sectors. One key development is the potential linkage between the India-U.S. Defence Acceleration Ecosystem (INDUS-X) and the U.S.-Japan Forum on Defence Industrial Cooperation, Acquisition and Sustainment (DICAS). This trilateral initiative opens up exciting opportunities for cross-border IP creation, sharing, and protection in the defence sector. It could lead to joint development of advanced defence technologies, strengthening each nation's IP portfolio.

Furthermore, Japan's recognition of Taiwan as an "extremely important partner" in its National Security Strategy aligns with India's interests. This shared perspective paves the way for India and Japan to collaborate more closely with Taiwan, especially in the critical semiconductor domain. Such cooperation could significantly enhance India's semiconductor IP through joint ventures in fabrication technologies, supply chain diversification, and drone technology. Moreover, the summit's emphasis on Japan's more assertive role and its policy of defence outreach through Official Security Assistance (OSA) could lead to joint Indo-Japanese development of defence goods. This not only strengthens both nations' defence IP but also reduces other regional countries' dependence on Chinese supplies, showcasing how strategic shifts can drive IP collaboration.

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The Extraterritorial Reach of Japanese Patents

On July 29, 2022, a Japanese Internet service company published a press release that surprised IP practitioners in Japan. DWANGO INC., the appellant and the plaintiff, lost patent infringement litigation against FC2, Inc., a U.S. based content provider, and another party, (FC2), at the Tokyo district court in September, 2018. The press release announced that DWANGO won over FC2 in the appeal at the Intellectual Property High Court (IPHC), which is similar to the U.S. Court of Appeals for the Federal Circuit in the United States. The IPHC determined that, while respective programs at issue in the present case were transmitted from servers outside Japan, it would be substantially unjust if liability for patent infringement could be easily avoided by locating a piece of equipment, such as a server, outside of Japan in today's digital society.

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Amicus Curiae Practice is Set to Make Its Statutory Debut in Japan

In the United States and other countries, there is a growing awareness and increasing appreciation of the purpose and value of amicus curiae practice as an aid in adjudicative decision-making. The role of an amicus curiae (“friend of the court”) brief in support of a party, or in support of no party, is to supply, voluntarily, the presiding court or other tribunal in cases of controversy with pertinent information, insights, or arguments in a formal, publicly accessible manner. Toward that end, a well-written amicus brief is one that is useful to the decision-maker(s) in calling attention to relevant or material factual or legal aspects of the issue(s) in contention aspects that the decision-maker(s) or the party-litigants may not have been aware of or able to develop fully.

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Hello Kitty's Kawaii Conquest: Japan's Pop Icon Turns 50, Eyes India's Gen Z

As Hello Kitty, Japan's beloved pop culture ambassador, turns 50, she's setting her sights on India. The \$3.8 billion global brand, synonymous with Japanese Kawaii (cuteness) culture, is making her debut in the subcontinent through a partnership between Sanrio and Dream Theatre. Targeting India's Gen Z, Hello Kitty will launch Hindi YouTube channels this year, followed by Tamil and Telugu in 2025, and an Instagram presence next month. Sanrio's COO, Silvia Figini, sees India's growing manga and Kawaii trends as perfect timing for entry.

Dream Theatre's founder, Jiggy George, highlights the brand's unique appeal across ages and categories. With plans for content, products, and themed cafes, Hello Kitty aims to captivate Indian audiences with her message of kindness, embarking on a fresh, kawaii-filled adventure at 50.

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Key Policy

India Opens Doors for Foreign Lawyers & Foreign Law Firms

In a path-breaking development in the legal sector, the Bar Council of India (BCI), on March 15, 2023, allowed foreign lawyers and law firms to practice foreign law in India on a reciprocity basis. The development was announced through Bar Council of India Rules for Registration and Regulation of Foreign Lawyers and Foreign Law Firms in India, 2022 (BCI Rules), enabling international lawyers and arbitration practitioners to advise in India. Thus, making it easier for US and Japan firms venturing into Indian market. Making it a huge possible market for the potential gains.

IP Protection in India for Japanese Businesses

India's robust consumer base attracts IP registration, offering lower costs than the US and EU, with CGPDTM's English acceptance further reducing expenses. The 2019-2020 report shows significant improvements in India's IP framework, including faster processing and reduced backlogs. Trademark acceptance has risen to 50%, and design examination takes under a month. India-Japan collaboration is strong, with a trial PPH agreement, the 2011 CEPA free trade deal, and the 2018 IJDP and 2019 IJICP enhancing digital trade and industrial competitiveness. These factors make India an increasingly attractive destination for IP protection.



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