

Lot of light on patent law

International team arrives on a mission to educate CII members



Rajeev Rajan, State Commissioner of Industries (left), Ramesh Adige, Executive Director, Corporate Affairs, Ranbaxy, David T. Hopper, US Consul-General in Chennai and Randall R. Rader, Judge, US Court of Appeals for the Federal Circuit, at the IPR Summit 2008, in Chennai on Thursday.

— PHOTO: V. GANESAN

Special Correspondent

CHENNAI: The glitterati of the intellectual property rights world are here for two days from Wednesday to educate members of the Confederation of Indian Industry (CII) on how to tighten the application of existing patent law in India and examine the legal issues that many of them feel are contentious, in particular, the scope of patentability (notably section 3(d) of the Patent Amendment Act) and data protection (exclusive rights to clinical trial data).

The team — brought together by George Washington (GW) University Law School, a bastion of Intellectual Property law in the United States — held out both the carrot of wealth and the stick of United States sanctions before the audience. Making a comparison with China, Judge Randall R. Rader, of the U.S. Court of Appeals (Federal circuit) suggested

that "India's prosperity... will be controlled by its ability to protect and ensure the creation of intellectual property."

David T. Hopper, U.S. Consul-General, Chennai, highlighted the tools available to his government to ensure that IP law is effective for U.S. businesses, including placing countries on its disapproval "Special 301 report" list, losses of benefits and bonuses of technical assistance.

The team, which includes academics, judges, lawyers and representatives of majors such as Microsoft, Eli Lilly and Ford, contained many affiliates of GW law school, which since 2003 has run an "India Project" to examine how India's legal system should be changed to support innovation and the enforcement mechanisms it considers needed meet the WTO obligations.

GW's fifth mission is wide ranging — the team has met government officials, busi-

ness leaders and legal practitioners, and conducted capacity-building workshops and mock court sessions. "The people who attend our sessions are opinion leaders for intellectual property... This often results in changes in the system," Herbert C. Wamsley Executive Director, Intellectual Property Owners Association, said.

"We have a fully TRIPS-compliant IPR regime," said Rajeev Ranjan, Commissioner of Industries, Government of Tamil Nadu. India fought hard for the flexibilities TRIPS allows, he reminded CII members, but the administrative system needed modernising and expanding, he said. "While we support intellectual property, this is not to say that we have to do everything that the U.S. does. We have to cut the cloth according to the requirements of this country," said Ramesh Adige, Executive Director, Corporate Affairs, Ranbaxy. "When patents come very

easy they stifle innovation...The amendments to the Patent Act were made in debate...The primary focus was to ensure that access to medicines was not compromised," he said. The Indian system is working for what it was made for, but with nearly 100,000 patents pending there needs to be an improvement in IP structure, he said. The mission runs simultaneously with meetings of the U.S.-India business council in Mumbai and the bilateral High Technology Cooperation Group in New Delhi. "Multinational companies are embarking on a huge campaign for harmonisation of intellectual property laws," said Dr. Yusuf Hamied, Chairman, Cipla, speaking over the telephone from Mumbai, who sent a representative to the meeting here. "India," he said, "should not allow its laws to be made in the corridors of power in London or Washington."