

Foreign Clients Flock To Indian IP Firms

By **Erin Marie Daly**, erin.daly@portfoliomedia.com

Friday, January 12, 2007 --- With an increasing number of U.S. companies looking toward the Indian market, the recent economic boom in the country has done more than just create jobs and fuel investment: Intellectual property law firms in India say their numbers of foreign clients have come to rival or surpass their domestic caseloads.

“India is indeed going through an era of vibrant industrial and economic growth hand in hand with the unavoidable growth in the IP sector as well,” says Jose Madan, head of the intellectual property practice at Mumbai-based Khaitan & Co. “With the IP landscape in India being inviting and exciting to IP owners, and with the floodgates of the economy being open, the interest of foreign companies in India has taken an upward swing, and the inflow of IP work has been increasing steadily.”

For many Indian law firms, the rosy economic forecast has meant a rising influx of intellectual property cases as foreign companies increasingly enter the country’s thriving marketplace.

At Khaitan & Co., for instance, the firm’s foreign IP clientele has risen by an estimated 20% in the past year, Madan says.

Other Indian IP firms are observing similarly skyrocketing numbers. Sunil B. Krishna, partner at Mumbai-based intellectual property firm Krishna & Saurastri, says his firm has seen a 35% boost in foreign IP clients compared to last year.

“The Indian economy is slowly opening up, and by restrictions and tariff barriers going down, the Indian economy is presently maintaining a 10% average growth,” says Krishna. “Industry and business are becoming more demanding, and thus IP law firms are also noticing boost in their clientele, which is purely on account of the confidence level of the global investor in the country as India is becoming a responsible economy.”

In order to specifically address the needs of foreign clients, Krishna & Saurastri has created comprehensive quick links on its Web site for overseas companies with questions about the intricacies of Indian intellectual property law. Foreign clients considering filing patent applications in the country, for example, can determine the patentability requirements for inventions and learn about application and examination procedures.

At Anand & Anand, the proportion of foreign clients in its overall annual

caseload increase has shot from 75% to 86%, according to partner Pravin Anand.

To deal with the wave, the firm has built its ranks to include over 50 attorneys and 12 engineers. But the firm is paying close attention to balance, too.

“One of our strengths is the ability to maintain a reasonable mix of foreign and Indian clients,” says Anand. “This allows us to present a more balanced face before our Indian courts, legislators, customs, police and other enforcement authorities.”

For now, the vast upswing in India’s economy is showing no signs of slowing: Earlier this month, the country’s finance minister said India’s economy will likely grow almost 9% this fiscal year. That buoyant market has made India a critical country in which to seek patent protection, especially for high-tech and pharmaceutical companies.

India’s liberalized foreign investment policy – which began in the early 1990s – has led a large number of foreign corporations to launch operations in the country. That, in turn, has led to a significant increase in the number of foreign clients in the intellectual property space for Mumbai-based law firm Majmudar & Co., according to partner Anoop Narayanan.

“A significant amount of new technology transfers and collaborations are also happening on a regular basis,” he says. “Various technology companies that started their research and development operations in India a few years ago now realize that these R&D facilities are generating large amounts of intellectual property such as patents.”

In addition, says Narayanan, the liberalized entry for retail giants such as Wal-Mart is bringing a large amount of trademarks into the country, prompting other companies to protect their own intellectual property in India and go after respective registrations.

Patent filings have also seen a boost as more pharmaceutical companies have been attracted to the Indian marketplace after the introduction of India’s Patent Act in 2005, he adds.

For its part, Majmudar & Co. has taken on several big foreign clients in recent years, including the University of Illinois; Dallas, Tex.-based CDX Gas LLC and Waltham, Mass.-based Raytheon Co., advising them on patent strategy, filing and prosecution in India.

The firm also frequently litigates on behalf of overseas trademark holders, and provides comprehensive services in registering copyrights, particularly in the area of software development.

In fact, several Indian law firms have seen such a surge in their intellectual property practices that they have set up separate outfits specifically to handle the overflow of patent work.

The Mumbai-based Nishith Desai Associates, for example, recently launched IPPro Inc., which offers customized packages of services, including patent drafting, litigation support, tracking infringing technologies, prior art, landscaping, and foreign filing coordination.

Similarly, intellectual property law firm LexOrbis, based in New Delhi, has spun off Clairvalex, a team of scientists, engineers, and legal professionals equipped to handle patent drafting and analysis, searches, licensing support, proofreading, and patent watch services.

Vivek Kathpalia, partner at Nishith Desai, estimates that about 70% of the firm's clientele is now non-Indian.

He also says the lion's share of the firm's IP cases these days is in the trademark area, although he expects that to change in the near future.

"The trademark application process in India has drastically improved recently, and what used to take seven years now only takes one or two," he says. "But patent litigation will be the next boom, and a number of our multinational pharmaceutical clients are already looking towards India, and asking us to look into prior art."