

Empowering TIMES



May 2012

Editor's DESK

Dear Reader,

In today's time, Intellectual Property (IP) and rules regarding its use have come to the fore like never before. With the increased cross-linkage between world economies, IP protection has gained supreme importance. While the intent has been to protect the owner and help him gain commercially or otherwise, IP protection is increasingly being labeled as an instrument of the economically powerful countries. But the reality is that IP should be protected so that its 'fair usage' can be ensured and individuals and organisations (small and large) can benefit from the same. This month's ET, is about IP, its protection and its importance, I am confident you will find it to be a good read. On a lighter note, imagine Archimedes, running out of the public bath, crying 'Eureka, Eureka' and running straight for IP registration!

In **Thinking Aloud** this month, Jay discusses Intellectual Property (IP), its increased awareness in recent times and the ensuing legal tangles caused by this awareness. He presents the definition of IP given by the World Intellectual Property Organization (WIPO), which translates to mean intangible assets attributed to individuals and organisations to be used under due acknowledgement to the owner. He says that while IP is viewed by many as an unfair instrument of established economic powers, the real thought of WIPO is to provide incentives to individuals by offering recognition. Creation and change of law is one aspect, but the bigger one is enforcement of those laws. He signs off by saying that it is time that we start paying attention to protecting our IP, as you have to protect what is truly yours.

Podium this month features **Dr. Bhooshan Kelkar**, Country Manager, IBM India University Relations. Dr.

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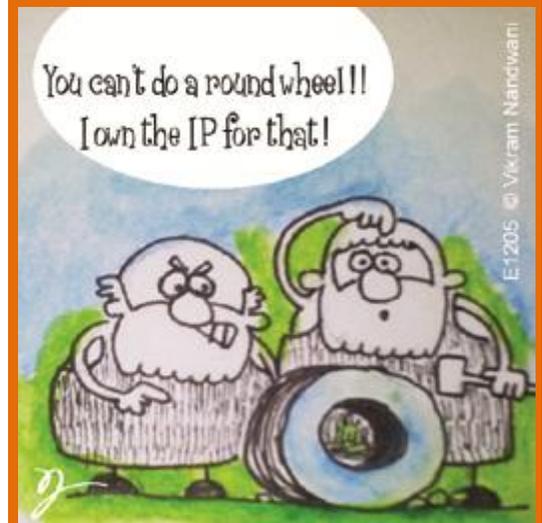
Podium: Interview with **Dr. Bhooshan Kelkar**, Country Manager, IBM India University Relations.

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Standing Ovation: Samarthanam Trust for the Disabled

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By Vikram Nandwani



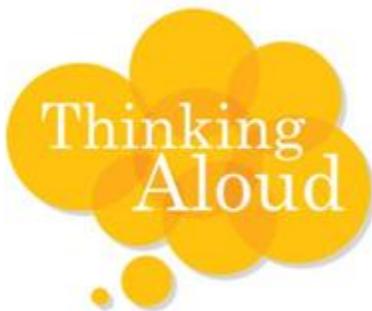
Bhooshan who holds eight US patents and was named 'IBM Master Inventor' for 2011, helps us understand the difference between IP, Patents, GI and copyright. He says that Indian companies have upped the ante with regards to IP spending, but inbound and outbound M&A activities too have brought IP to the fore. He is of the view that while protecting IP may be an expensive affair, smaller companies can benefit if they can skillfully negotiate and use IP as their tool. According to him, it is very essential to educate the current generation about IP so that the 'jugaad' and 're-engineering' capabilities are protected. But he cautions that filing for an IP protection should be a well measured step so that it turns to be an asset for the owner.

In ***Between the Lines*** this month we review the book 'Start With Why: How Great Leaders Inspire Everyone To Take Action' by Simon Sinek. The book presents the author's thesis that a truly inspirational leader is able to evoke a positive response from employees and customers, which in turn brings in the believers. Simon states that successful firms and leaders sell the 'why' of an action or product. Though the concept per se is not completely new, but the author's style of communicating his point to the reader is what is compelling about the book. Simon elucidates through the Golden Circle principle of 'Why', 'What' and 'How'.

Standing Ovation this month features Samarthanam Trust for the Disabled, a Bengaluru based NGO, which enables the deserving, young, and talented children with disability of any form, or from marginalized economic backgrounds. Founded in 1997, Samarthanam has been empowering the visually impaired, disabled and underprivileged people in India. The NGO reaches out to the needy section through various activities such as Vidyaprasad, Parisara among others. For the noble cause for which Samarthanam exists, it deserves a Standing Ovation!

In ***Figures of Speech***, Vikram says, the round wheel's IP has been taken!

As always, we value your opinion, so do let us know how you liked this issue. To visit our previous issues you can visit the Resources section on the website or simply [Click Here](#). You can also follow us on [Facebook](#), [Twitter](#), [Linked In](#) & [Google+](#).



To IP Or Not To IP? - Jay

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He who has IP wins!

In recent times, there has been an increased awareness of the concept of Intellectual Property, with much debate in the press about the might of large firms who have been able to lead legal battles to other camps over their claims. Interestingly, these battles are not just against smaller imitators but you have the big boys too arguing over ownership rights, as evidenced by the on-going battles: Yahoo v/s Facebook, Apple v/s Samsung, Microsoft v/s Google, etc.

What is IP all about? In the words of the World Intellectual Property Organization (WIPO), Intellectual property (IP) 'refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce'. Put

simply, these are intangible assets of certain kinds that have been attributed to individuals and organisations and can only be used with due acknowledgment (usually under a commercial arrangement).

This debate has many dimensions as witnessed recently in India, with Parliament passing an amendment in the Copyright Act which has given increased protection and brought cheer to musicians, lyric writers and singers, while drawing the ire of the music production companies. That about sums it up about whose right is it anyway when it comes to ownership disputes: the creator of the original idea or those who make an unknown product into a commercial success? What makes it hard to resolve is that both sides have valid reasons to buttress their respective case.

The dispute takes a jingoistic turn when the battle is over Geographical Indication (GI). To the uninitiated, this refers to a country or to a specific local area or region or place of origin of a particular product. The regional distinctiveness signified by the name is an assurance of quality and is an automatic hallmark for the product. Examples include Darjeeling Tea, Kolhapuri Chappal, Goa Feni, Tirupati Laddoo, etc. But when Basmati Rice was under threat from the 'American Basmati' (created by Ricetec, a US based rice breeding firm), it raised enormous uproar both in India and Pakistan (who both claim a traditional heritage link to Basmati).

The primary argument in favour of patents, according to the WIPO, is that it provides 'incentives to individuals by offering them recognition for their creativity and material reward for their marketable inventions. These incentives encourage innovation, which assures that the quality of human life is continuously enhanced'. However, there is another school of thought that believes that laws on Intellectual Property are instruments of the established economic powers to exert unfair legal pressure on the emerging and Third world nations who do not have the means to fight expensive legal battles in international fora to protect what is traditionally theirs. Or, as in the case of the pharmaceutical industry, the weaker segments of society (and the poorest in the world economic order) become victims of the profiteering marauders of Big Pharma (witness the case of the availability and pricing of the AIDS drug in Africa, etc.).

You can take either position depending on your economic logic but there is no denying that statistics reveal that for years the largest filings for patents have come from the economic giants of the world, US and Japan. However, in yet another sign of the changing global equations, China has now displaced Japan to become the top country for resident patent applications, according to the WIPO. This is an interesting development, because for years China, India and other emerging nations were not the epitome of respect for Intellectual Property. In fact, many established global companies still harbour fears about piracy, copying, plagiarism, and other associated challenges of protecting their intellectual creations in these markets. But, clearly, with the growth in their economic clout and with increased calls for 'responsible behaviour at the global stage', both China and India have begun to slowly modify their laws in line with WTO and TRIPS requirements by changing their domestic statutes.

And, it is not limited to change in laws alone. The true test would be enforcement of laws. And, there is fair evidence of this in India too, the most recent being the High Court decision asking ISPs to stop streaming from illegal websites. Clearly, the tide is turning and we will see more active steps being taken to protect the legal positions of firms who have taken proactive steps under the IP laws.

All this adds to one thing: if you have not begun to pay attention to protecting your Intellectual Property (be it through Trade Marks, Copyright, GI, etc.), it is time you studied this aspect more closely and create a strategy to protect what is really yours.

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Dr. Bhooshan Kelkar, Country Manager, IBM India University Relations



Dr. Bhooshan Kelkar, Ph.D., has professional experience of more than 17 years, 12 of which has been with IBM, both in the US and in India. Bhooshan holds a B.Tech. from IIT Bombay, MS and PhD (from the UK), along with a Bioinformatics Certification from University of California and a Certificate in IP Law from Watson Research Training Center, NY. He has also completed MBTI certification from NY in 2011. He holds eight US patents in multiple technologies and has been named the “IBM Master Inventor” for 2011. Bhooshan has designed and delivered courses in Universities in the UK, USA and India. Bhooshan has delivered sessions on IP and its importance at various places- nationally and internationally and is also on the FICCI-IPR Committee.

He has edited/written 10 non-technical books besides being the author of the 2008 Marathi best seller, 'Swadesh'. Bhooshan is a visiting faculty at institutes for competitive examinations such as the UPSC and MPSC, apart from being a faculty for 'Train the Trainers' on soft skills for University of Pune. Bhooshan has been interviewed by 'All India Radio', TV channels such as 'Zee Business', 'IBN Lokmat', 'Vyas Channel' of the UGC and at many public events.

ET: Could you please clarify the terms IP, Patents, GI and Copyright?

BK: Intellectual Property (IP) refers to creation of mind and is predominantly intangible property. However it has various implications in terms of monetization and has tangible implications. The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), negotiated during the 1986 to 1994 Uruguay Round, introduced intellectual property rules into the multilateral trading system for the first time. There are various types of IP and according to the TRIPS agreement the IP has been classified into - patents, industrial designs, TradeMarks, Copyright, geographical indications (GI), Layout Designs of Integrated Circuits, and Trade Secret.

A patent is an IP right relating to inventions and is the grant of exclusive right, for a limited period of time, provided by the Government of the patentee, in exchange of full disclosure of the invention, for excluding others, from making, using, selling, importing the patented product or process producing that product for those purposes.

GI is specific to a geography as the name suggests. GI is a name or sign used on certain products which correspond to a specific geographical location or origin (e.g. a town, region, or country). The use of a GI may act as a certification that the product possesses certain qualities, is made according to traditional methods, or enjoys a certain reputation, due to its geographical origin. Examples for India are: Nasik Grapes, Puneri Pagadi, Mahabaleshwar Strawberry. Famous international GIs are Champagne, Tequila etc.

Copyright is an intellectual property form applicable to any expressible form of an idea or information that is substantive and discrete. Unlike patent, copyright pertains to the expression of idea and not the idea itself. Copyright is a legal concept, enacted by most governments, giving the creator of an original work, exclusive rights to it, usually for a limited time. Generally, it is "the right to copy", but also gives the copyright holder the right to be credited for the work, to determine who may adapt the work to other forms,

who may perform the work, who may financially benefit from it, and other related rights.

ET: What are the primary business-level changes being witnessed due to the increased awareness about IP in India? Please share some examples from your experience.

BK: The biggest primary business level change that we are witnessing is the increased spending amongst Indian businesses about IP due to increased awareness. There is still a long way to go, however, the momentum is building.

With M&A being on the rise for and by Indian companies and Indian conglomerates, the IP factor is taking its due position and many are thinking in that direction. This is very pertinent to the pharmaceutical sector in India.

Thirdly, with entrepreneurial activity spiking up, young companies are improving their chances of getting seed funding by virtue of showing a well thought out “business plan” and well developed IP strategy by building a robust portfolio.

Fourthly, some recent enforcement examples, giving boost to the faith in the business community that indeed in India IP rights can be meaningfully enforced is a key driver.

Last but not the least; IT companies are increasingly taking “sharing IP” as a factor into working out or negotiating contracts with end customers. In fact, there is a growing trend that Indian IT companies are accepting and even suggesting “stake in IP” in lieu of some payments for man-hours, which is a pivotal change.

ET: What is your view about the polarization of the global economic scenario by the ‘big’ corporations wielding their IP strength?

BK: It is indeed true that protecting and enforcing the monetization of an idea is fairly expensive in the developed world for smaller companies and they stand to lose out in the protracted battle on legal turf, and indeed the playing field is not level! There are two main aspects- one is the cost of actually protecting the IP, and second even more expensive and difficult is- identifying who is infringing on your IP in the world.

Having said that, there are ways and means that various creative smaller companies have devised and they do protect their IP but do monetization not through the court of law but by skilful and astute negotiations using the IP as a tool in their armour.

In the globalized and ever flatter world, with the WTO and various international agreements in place, governing many aspects of international trade and including many countries in the ambit of these treaties, the legal battle will be lengthy but in the long run, if the IP has been protected well by the lawyers, then the small companies stand to be rewarded.

We also need to keep in mind that IP is just one, though a key, factor in the broader scheme of things and there are many dimensions and facets to this scenario comprising but not limited to geo-political, economic, technology-related and even social among others.

ET: IP and the core ethics and values of an organisation are susceptible to be on a collision course; what according to you is the best way to handle such a situation? Please share some examples if possible.

BK: Organisations are a microcosm of the country they originate in and hence the values or/and ethics are ingrained in the very DNA of those organisations.

As an example, in India we believe that knowledge and pursuit of knowledge is a noble thing and cannot be limited by anyone. In

fact, applying for a patent is taken as a “monopolistic” approach seen more as a vile and an anti-social behaviour. What we need to understand is that the inherent design of patent as it pertains to the US constitution is in fact, to the contrary, for “greater good” than a perceived capitalist monster that it may appear to be!

The best way to handle such scenarios is education and awareness. Awareness on the fact that protecting IP is, in the long run, good for the human society at large, in fact has time and again benefitted mankind since after the patent period is over, the knowledge is available to the masses. Taking example of the pharmaceutical sector, when the drugs, especially the blockbuster drugs are off patent regime, all and sundry can manufacture the drug and millions of patients stand to directly benefit to the point of being saved from otherwise certain death!

ET: In your opinion, how can Indian talent create globally valid IP?

BK: With the 20-20 vision that we keep harping on, we need to educate our youth about the importance of and the means of securing IP, and that too at a very early age. The Gen Y or the now clichéd “demographic dividend” is going to be a wasted resource if we are not going to protect the so called “jugaad” and “re-engineering” capability that Indians possess. The government, the private sector and more importantly the education sector needs to work within and in tandem to bring about this change, which is not only desirable but necessary. IP awareness and protection is no longer a luxury for Indian business, it is its basic tenet in the very near future.

Indian talent can really start with the protection of IP in India since it is relatively cheaper to do so in our country, but keep an eye out for opportunities for filing counterparts. This generally gives the inventor a time period to assess the commercial viability and its “price point” in the international market and then weigh the pros and cons of going for a patent filing in various geographies. Thus this enables only qualified and well thought out inventions to be then taken abroad for commercialisation/trading or licensing.

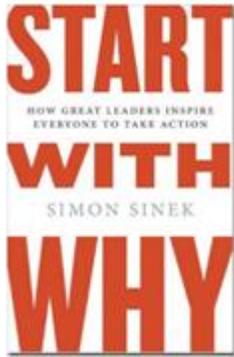
The key to all this is going to be increasing awareness and I don't really see any short-cut to that! Like most other good things, IP also does not have short cuts!!

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Start With Why: How Great Leaders Inspire Everyone To Take Action by Simon Sinek



Simon Sinek is still relatively unknown in business circles, even though his book, 'Start With Why: How Great Leaders Inspire Everyone To Take Action', was published in 2009. However, his TED Talk has gone viral with over 5 million hits (and I would recommend it too).

What is the compelling point he makes? His thesis is that the truly inspirational leader is able to evoke a positive response from his troops (as well as customers, for that matter) because at the core they communicate the *raison d'être* of the concept. Clarify the 'why' of doing something (the proposed course of action, the product, etc.) and there is a cause that attracts the likeminded. This is genuine appeal that brings in the believers, the innovators.

Sinek stresses the classic Law of Diffusion of Innovation in society - the five segments being the Innovators, early Adopters, early Majority, late Majority and the Laggards, to drive home the point that what successful firms and leaders do is to 'sell' the 'why' of an action or a product, thereby convincing the Innovators (the 2.5% of the Bell curve) to try the new idea or concept. If convinced, they become the rolling stone that triggers-off the avalanche. He illustrates his point with multiple examples from the world of politics and business (Martin Luther King, Apple, etc.).

Arguably, Sinek's thesis may not be very new but undeniably his ability to communicate his point has received accolades, as evidenced by the fact that his TED talk is one of the most viewed videos on the Net.

Sinek's primary concept is the Golden Circle principle of 'Why', 'What' and 'How'. According to Sinek, most people know 'What' they do, as their actions are easy to identify; most even, know 'How' they do stuff, but not enough people now 'Why' they do what they do! With some powerful illustrations, Sinek explains that very few people or companies can clearly articulate 'Why' they do 'What' they do. Emphasising that making money is not a 'Why' (that's a result, according to him); the central question always relates to your purpose, cause or belief, as true passion emanates from this vital source.

A powerful point indeed! And, Sinek goes on to explain that the root of his theory lies in biology, showing the linkage between our 'gut feel' and brain, given the association between our limbic brain & neocortex parts of the brain (our feelings impact our thinking, never mind the rational thinkers!).

Sinek is not your conventional management writer but with his roots in advertising and as a teacher of strategic communication at Columbia University, he sends a powerful message that reinforces the work that many other management researchers have made before; and, makes one think again about the 'Why' of your business. Recommended reading!

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Samarthanam Trust for the Disabled

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Samarthanam is a Bengaluru based NGO which provides opportunities for the deserving, young, and talented children with disability of any form, or from marginalized economic backgrounds. It was founded in 1997 by Mahantesh G.K. and two of his friends by providing free hostel facilities to the deserving students.

Since inception, Samarthanam has been working to empower the visually impaired, disabled

and underprivileged people in India. The NGO supports them with an aim to keep in pace with the rest of the society by providing quality education, accommodation, nutritious food, vocational training, placement based rehabilitation and achieve personal independence. However the long term focus of Samarthanam is shaping an inclusive society which provides opportunities, without any discrimination, for the development of the visually impaired, disabled and underprivileged people.

Samarthanam's mission is to empower the visually impaired, disabled and underprivileged people through developmental initiatives focusing on educational, social, economic, cultural and technological aspects.

Samarthanam was originally started with two visually impaired friends and over the span of 13 years has grown into a full-fledged organisation that provides end-to-end support facilities. Having executed a wide range of projects from education to rehabilitation, Samarthanam has evolved to become a renowned and deeply respected entity in the developmental sector. Some of its activities include:

- **Vidyaprasad:** A midday meal program, providing 2,50,000 meals to children in 52 schools in urban and rural suburbs of Bengaluru
- **Parisara:** A dry waste recycling management initiative
- Preparing people with disabilities for new age jobs
- Spotting the talent, nurturing and promoting arts and cultural activities of disabled youngsters

In addition to this, the NGO is also committed to building a disabled friendly, inclusive residential school at Bengaluru.

Its vision is: An inclusive society, free of discrimination against the disabled, where people with disabilities, especially the visually impaired, enjoy equal opportunities and an enhanced quality of life.

If you want to get more information and support Samarthanam Trust for the Disabled, you can visit the website <http://www.samarthanam.org/> or write an email at info@samarthanam.org or look up the Facebook page at <http://www.facebook.com/Samarthanam>

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