

ONLINE CHAT • GLOBAL BUSINESS OPPORTUNITIES • TRADEWINDS

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# FIEO NEWS

Bulletin of The Federation of Indian Export Organisations

Vol. XXXIII No. 4

April 2013

Rs. 70



Mr M Rafeeqe Ahmed, President, FIEO (left) welcoming the Hon'ble Commerce, Industry and Textiles Minister, Mr Anand Sharma during Pre-Foreign Trade Policy Meeting with FIEO

03 Board of Trade Meeting

08 Uttarakhand: Vision 2020

11 Trade with Iran





# Chat

## ON LEGAL ISSUES

Every Tuesday, other than holidays, from 4:00 pm to 5:00 pm Ms Aparna Jain, Partner & Advocate, Knowledgegentia Consultants, for FIED, will be available on the chat section of the Federation's website to clarify your queries/issues on Corporate Legal Affairs, Arbitration, International Agreement, Technology Transfer, Patents, Trade Marks, Brand Management, Copyright and related topics.

**Q: We are manufacturing biscuits and other foodstuffs for exporting. Some buyers give us orders for developing their brand. What preventive steps or documents should we take from them, prior to accepting the order so as to protect ourselves from any alleged infringement or piracy of brand matter?**

**Ans:** An agreement or undertaking that in case their brand violates or infringes any label/trademark of any person, the liability and responsibility is of the buyer as your scope is restricted to manufacturing the biscuits and affixing the label/brand as provided to you. Also, as a preventive measure you can try and not take orders of infringing trademark/brand products.

**Q: We sold some goods to a private limited company based in New Delhi after receiving a purchase order. The invoice was duly issued to them as well. The company has also issued C Forms against the said invoice. Now, despite repeated reminders they are not making the payment to us. What remedy do we have?**

**Ans:** Under the provisions of Section 433 and 434 of the Companies Act, 1956, in case the liability is admitted and acknowledged, winding up proceedings can be initiated against the respondent company. A statutory notice has to be issued to the respon-

dent company prior to filing the winding up petition. This petition is to be filed before the High Court of jurisdiction where the registered office of the company is situated.

**Q: A design for a toy was published in China in a magazine. However, I have made a product that is more efficient and cost effective, but the look is similar. The same is not registered as a design in China. Can I claim design registration for it in India?**

**Ans:** No, under the provisions of the Designs Act, 2000 in case the design for which registration is sought is published anywhere worldwide, it loses its novelty. Thus, it cannot be registered as a design in India. However, in case there is an improvement and inventive step, then a patent can be filed in India to protect the novelty.

**Q: What rights does copyright provide?**

**Ans:** Copyright gives the owner of the copyright the exclusive right to do and to authorize others to do the following:

To reproduce the copyright work in copies or phono records; to prepare derivative works based upon the copyrighted work; to distribute copies or phono records of the copyrighted work to the public by sale or

other transfer of ownership, or by rental, lease, or lending; to perform the copyrighted work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, motion pictures and other audiovisual works; to display the copyrighted work publicly, in the case of literary, musical dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work; and in the case of sound recordings, to perform the work publicly by means of a digital audio transmission.

**Q: Are there any limitations / exceptions to copyright protection?**

**Ans:** Yes, there are limitations or exceptions on these exclusive rights. One limitation is the doctrine of "fair use". Other limitations include provisions for allowing compulsory licences, use and copying by libraries, the sale of the work by the owner and use which fall outside of the enumerated exclusive rights, such as performances that are not public.

**Q: How long do Registered Industrial Designs last?**

**Ans:** A registration for an industrial design lasts for 10 years, and is renewable for another five years. Assuming you pay the renewal fee when it is due, your industrial design registration will last for 15 years.

**Q: What is a design patent? How does it differ from a regular patent?**

**Ans:** Design patents are used to protect the stylistic, aesthetic ornamental aspect of a product design. Regular or utility patents, on the other hand, may be said to protect improvements in how a product operates or how it is constructed or the process of efficiently manufacturing the product. ■