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Role of IP Office and Capacity Building: Bangladesh Experience

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Objective

- All is not rosy, countries differ in stages of development
- To share practical experiences of handling an IP Office in a LDC where Government exerts authoritative control.
- To emphasise on a common approach for bare minimum Regional or Sub-Regional IP Administration platform particularly for developing countries and LDCs.

Bangladesh- Recent Developments

- New Trademarks Ordinance Comes into force from 1.7.2008
- New Patents and Designs Law under Inter-Ministerial Consideration
- Draft GI Law under Inter-Ministerial Consideration
- EC supported project starts July 2008
- Integrated IP office and strengthening thereof agreed to in principle

Bangladesh- Recent Developments

- Amendment of procedural rules for delivery of service in 150 days for Trademarks, 6 months for Designs and 21 months for Patents in the process
- New recruitment rules in 2 months
- Agreement between BBF and Government
- Chamber for IP Center
- Special drive for clearing backlog of 80,000 TM applications, first stage completed.

Role of IP Offices



Scenario-I: Pro-active

- Promoting / Coordinating IP Creation
- Providing legal recognition to IPR
- Enforcement

Scenario-II: Pro-Active to Active

- Providing legal recognition to IPR
- Enforcement

Scenario-III: Passive

- Providing legal recognition to IPR only

IP Offices in Bangladesh



- Department of Patents, Designs and Trademarks
 - Created in 1995 unifying the former Patents and Designs Office and the Trademarks Registry
- The Copyrights Office

Role of Bangladesh IP Office: Passive, Quasi-Judicial



Patents, Designs and Trademarks : Passive

- Granting legal recognition of IPR
- Act as tribunal
- No role in infringement matters
- No role in promotional matters

Copyright:

- Provide protection
- Dispute settlement
- No role in infringement matters

IP Environment

Policy

- No IP Policy yet
- No integration with sector policies
- PRSP silent

Infringement

- Police and Judiciary and the Customs Authority are the key players, DPDT has no role
- Infringements largely unattended

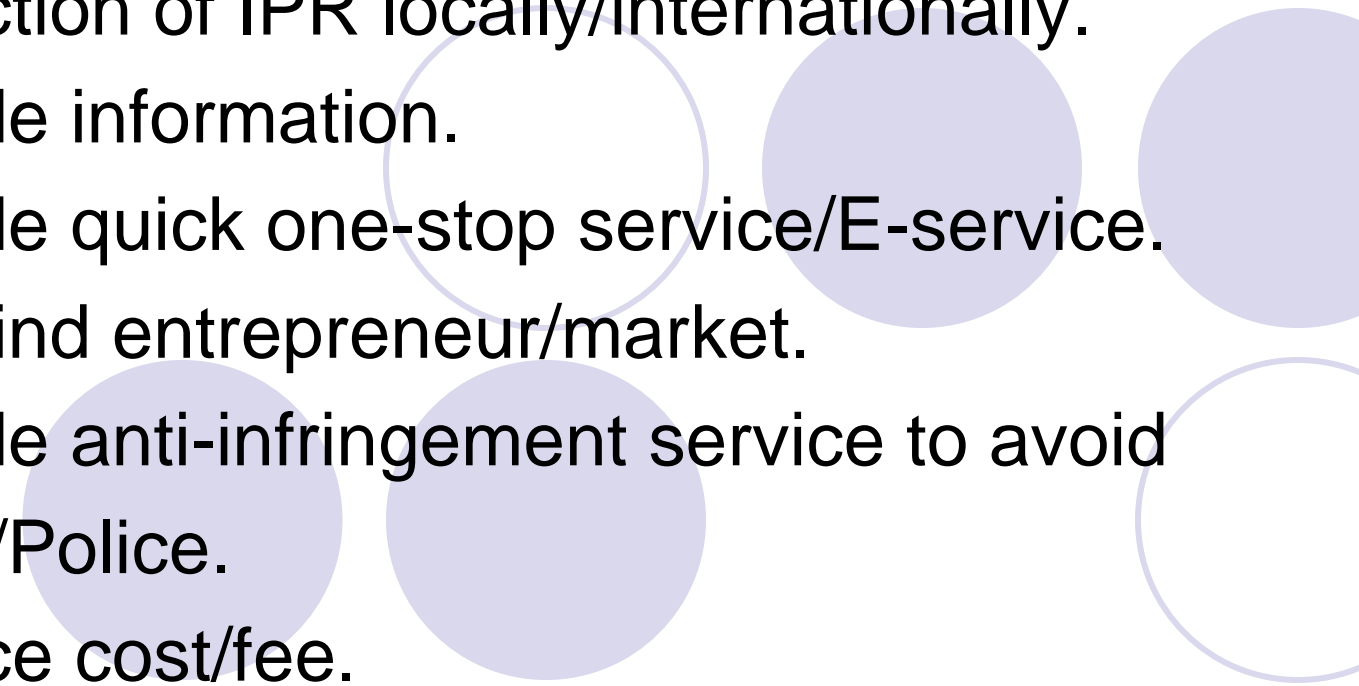
Department of Patents, Designs and Trademarks at a Glance

- Total posts of Examiners and above - 60
- The Registrar, all Deputy Registrars, all Assistant Registrars are outsiders.
- All Examiners in Trademarks Wing are outsiders
- Only 3 examiners in the Patents and Designs Wing are permanent officers.
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Department of Patents, Designs and Trademarks at a Glance: Continued

- No IT/computer Unit/personnel.
- Backlog of about 80,000 TM applications
- Delivery time - Years

Expectations of IP creators

- Promote/ provide institutional/financial support.
 - Protection of IPR locally/internationally.
 - Provide information.
 - Provide quick one-stop service/E-service.
 - Help find entrepreneur/market.
 - Provide anti-infringement service to avoid Court/Police.
 - Reduce cost/fee.
 - Establish complaint/dispute settlement mechanism.
- 



Government's Expectation

- Clear backlog, Serve the business community
- Work as storehouse of information of local, regional and international cross-currents, provide information, put up suggestion
- Provide advisory and secretarial service in international negotiations.
- Provide draft laws as and when required.

Government's Expectation: Continued



- Establish and observe Citizen's Charter.
- Simplify procedure, reduce delivery-time.
- Help Government keep a clean image.
- Reduce cost and generate surplus revenue.
- Look out for technical assistance.



IP Agent's Expectation

- Consult before authorising any new /law procedure;
- Don't over-simplify procedure.
- Don't set fixed time in the law for taking steps by an applicant or opposition; leave it open for circumstances to decide.
- Reduce fees/rates.
- Enforcement- IP Office to play prime role.

Business Community's Expectation

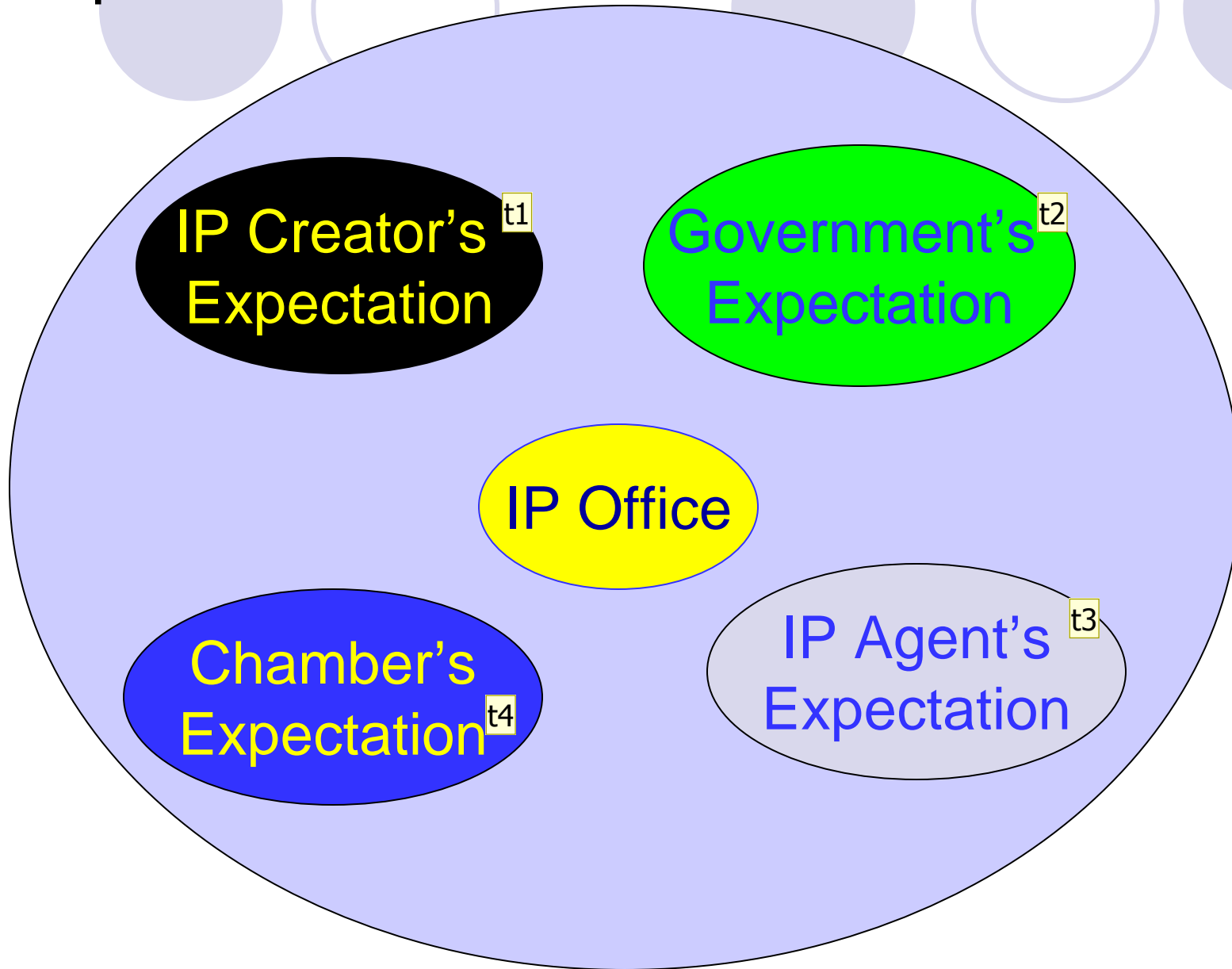
- Provide quick IP service/information
- Patronize R&D activities to support business
- Protect market from unfair local competition
- Protect local market from absolute foreign monopoly without partnership/technology transfer

Business Community's Expectation: Continued



- Participate and Involve Chamber & Commerce in international negotiations
- Consult before entering into international treaties/agreements (PCT); Ensure national interest and level playing field
- Help establish IP centre

Expectations from IP Offices



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- t1** Promote/ provide institutional/financial support.
Protection of IPR locally/internationally.
Provide information.
Provide quick one-stop service/E-service.
Help find entrepreneur/market.
Provide anti-infringement service to avoid Court/Police.
Reduce cost/fee.
Establish complaint/dispute settlement mechanism.
tithi, 6/28/2008
- t2** Serve the business community.
Work as storehouse of local, regional and international cross-currents, provide information, put up suggestion.
Provide advisory and secretarial service in international negotiations.
Provide draft laws as and when required.
Establish and observe Citizen's Charter.
Simplify procedure, reduce delivery-time.
Help Government keep a clean image.
Reduce cost and generate surplus revenue.
Look out for technical assistance.
tithi, 6/28/2008
- t3** Consult before authorising any new /law procedure; don't over-simplify procedure.
Don't fix time in the law for taking steps by an applicant or opposition; leave it open for circumstances to decide.
Reduce fees/rates.
Enforcement- IP Office to play prime role.
tithi, 6/28/2008
- t4** Provide quick IP service/information
Patronize R&D activities to support business
Protect market from unfair local competition
Protect local market from absolute foreign monopoly without partnership/technology transfer
Participate and Involve Chamber & Commerce in international negotiations
Consult before entering into international treaties/agreements (PCT); Ensure national interest and level playing field
Help establish IP centre
tithi, 6/28/2008

Situation-1: Government's Agreement with BBF (Better Business Forum)

Ensure IP Service in 30 days- To issue LP or registration certificate as the case may be within 30 days of application filing.

Instruction to IP Office

1. Just do it.
2. Put up proposal for amendment of law, rule, regulation immediately.

Result: IP Office convinced the Government that it was not implementable.

Capacity building for DPDT approved in principle

Situation-2: Indian bid for Registration of Fazli Mango and Nakshikantha under GI Law

Instructions:

- Appraise on consequences
- Suggest Course of Action
- Put up Draft GI Law in 15 days
- Contact relevant agencies
- Liaise with Permanent Mission/WIPO



Situation-3: Trademark Ordinance, 2008

Draft Prepared by Law Commission after
visiting/consulting WIPO

Inter-ministerial Committee with Registrar as
Member-Secretary finalized draft

Cabinet okayed in principle

Translation into Bengali neglectfully done by
Law Ministry completed by IP Office

Situation-3: Trademark Ordinance, 2008:
Continued

Tendency of subjectification

Law Ministry inserts an inconsistent definition and refuses to budge.

“Proprietor” in relation to a trademark means a person whose name appears in the Register

Who is then the registered proprietor?

Result: Delay in finalizing the law but finally the Ministry gave in.

Situation-4: Website

Directive of the Government

Establish interactive website in 30 days (with all laws, information, procedure, fee rates and application forms for downloading)

Situation

- No fund provided
- No sponsorship allowed
- No authority to spend from own resources
- Send budget proposal to Finance Ministry

Result

- Website as desired could not be materialised.

Role of IP Office in Law making



- Conceiving the Law, Preparing the Draft accommodating clients needs
- Suggesting alternatives with consequences
- Preparing Executive Summary with in-puts and justification for key decision areas by the Cabinet
- Coordinating inter-ministerial decision and stake-holder interest
- Harmonizing with parallel laws

Role of IP Office in Law making: Continued

- Harmonizing with Regional Countries
- Taking care of international obligations under different treaties, agreements
- Consulting WIPO
- Preventing/resisting inconsistencies
- Working as the Secretariat

IP Office: Capacity Building

- Capacity to be consistent with assigned Role and work load
- Capacity to be consistent with expectation
- Capacity to be consistent with regional / international need
- Faculty development and continuity of expertise a must
- Minimum capacity to be ensured

IP Office: Capacity Building: Continued

- WIPO may like to recommend IP Office with minimum common role within given national or Regional context
- Diversity of role is an obstruction in having a harmonized IP environment from country to country
- Help LDCs establish IP Office to serve international expectation.



THANK YOU VERY MUCH
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