



2011

Book Review: Indian Patent Law and Practice, Kaylan C. Kankanala, Arun K. Narasani and Vinita Radhakrishnan (OUP, 2010)

Feroz Al Khader

Follow this and additional works at: <https://repository.nls.ac.in/ijlt>



Part of the [Law Commons](#)

Recommended Citation

Khader, Feroz Al (2011) "Book Review: Indian Patent Law and Practice, Kaylan C. Kankanala, Arun K. Narasani and Vinita Radhakrishnan (OUP, 2010)," *Indian Journal of Law and Technology*: Vol. 7: Iss. 1, Article 6.

DOI: 10.55496/SKU03040

Available at: <https://repository.nls.ac.in/ijlt/vol7/iss1/6>

This Book Review is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Indian Journal of Law and Technology by an authorized editor of Scholarship Repository.

THE INDIAN JOURNAL OF LAW AND TECHNOLOGY

VOLUME 7, 2011

BOOK REVIEW: INDIAN PATENT LAW AND PRACTICE, KALYAN C. KANKANALA, ARUN K. NARASANI AND VINITA RADHAKRISHNAN (OUP, 2010)*Feroz Ali Khader**

Patent law is a curious discipline. As a field of knowledge, it requires the practitioners to have some expertise in the two diverse fields of science and law. The science part pertains to the technology covered or protected in the patent. As we know, the branches of science are manifold: we have biotechnology, pharmaceuticals, chemical engineering, life sciences, mechanical engineering, computer sciences, electrical engineering and many others, each begetting diverse technologies of every kind. The legal part of patent law is relatively simpler. It pertains to carving out an exclusivity from what is already known (prior art) and seeking protection for the same in a manner prescribed by law.

There is no book that can guide one in the aspects of science, as a patent, by definition, is granted for cutting-edge science and technology. It then follows that any book on patent law would essentially deal with the legal aspects. Here too, there are two divisions a book can cater to – what is referred to here as the two faces of patent law. A book on patent law can serve the needs of a legal practitioner who deals with the contentious aspects of patent law. *Terrell on the Law of Patents* (Sweet and Maxwell, 17th edition, 2010) holds a special place among practitioners from the Commonwealth. A book on patent law can also serve patent agents – a group of ‘hybrid’ professionals who practice at the intersection of law and science. The nature of their work is different from that

* Advocate, High Court at Madras.

of a contentious patent lawyer. Their work involves preparing patent specification (a document which embodies the rights in a patent) and prosecuting them at the Patent Office leading to the grant of a patent. The book under review, *Indian Patent Law and Practice*, is a book written by a group of patent agents primarily targeting practising and prospective patent agents.

Oxford University Press has done a commendable job of bringing out this book in 360 pages. The book's appeal strikes you immediately: in a world where law books proclaim their arrival with the enormous bulk of their appendices (yes, in this great country, we have Appendices that are sold as law books in separate hard bound volumes charged at the price of the written commentary), this book is refreshingly lean and unintimidating.

The authors state at the beginning that they got into this business to render a service that was traditionally offered by lawyers having no technology or management background. The book asserts that patent law has two faces. True, just as there are too many lawyers with no technology background, there are also many technologists with no legal background. It is commendable that the book 'attempts to fill the dearth in Indian patent literature' in this regard.

The preliminary chapters of the book discuss the history of the patent system, the patentability requirement and the procedure for obtaining and amending patents. In the section on the patent system in India, the authors provide some useful statistical information on patent filings in India. Apart from that, there is not much the book contributes, other than referring to some of the recent case laws, which have been discussed. The authors do well in summarising the facts of most of the case laws mentioned in the book. A difficulty the reader may face while reading this book is the lack of appropriately placed citations for the case laws discussed in the book. Some case laws are discussed in the commentary with endnote references. However, these endnote references do not contain the citation of the case laws, although they do cite the paragraph number of the said cases. To find the citation of a case, one has to go to the table of cases at the beginning of the book. It may cause hardship to the reader to move back and forth to find the citation of the case and the relevant paragraph number. Footnotes would have been more desirable.

The book scores over other published books catering to patent agents through its focus on drafting techniques relating to a patent specification. The two chapters on patent specification drafting and claim drafting stand out in presenting a good introduction to the basics of drafting. The chapter on claim drafting is conveniently arranged technology-wise, with separate sections on electronics, software, mechanical and chemical inventions. Biotechnology receives some special treatment in the book. The authors safely premise their conclusions on patentability (especially on patenting gene sequences) based on the Patent Office Manual. Routine chapters on assignment, infringement, revocation, PCT applications and mining patent information appear in the latter half of the book. The book gives a good introduction to all the topics covered. However, a serious reader may find it difficult to do further research using this book as a starting point. The book does not give any reference to the rich literature that has emerged around patent drafting. Except for references to primary sources like statutes, treaties and manuals of practice, the book does not refer to any prior reference work. It would have helped the reader if such references had been provided.

The authors have taken great care in generating instructive tables and flow charts to describe the complicated procedures before the Patent Office. The sample forms in the appendices give a hands-on feel to beginners: the authors were thoughtful in adding sample invention disclosure forms, draft specification and assignment deeds.

The book is replete with amusing illustrations. The authors' fondness for the time machine can be seen at various places where they use the time machine to illustrate their point. Sample this: "For example, X invents a time machine and allows his colleagues to use it every weekend under an agreement of secrecy. Such use by X will not be considered to be public use or public knowledge." Though the said illustration may blur the line between science and science fiction, it opens many wonderful questions (hypothetical, of course) on time machines as inventions. Does an invention to travel through the fourth dimension (time), popularised by H.G. Wells, fall foul of section 3(a) of the Patents Act, which prohibits claiming anything contrary to well – established natural laws. Or, better still, does a prior travel back in time qualify for prior use that can kill the invention's novelty?

Like most first editions, there is scope for improvement here too. The utility of the book can be enhanced by inserting case citations, either within the commentary or as footnotes. In most chapters, the case laws appear at the end of a section, in isolation, titled 'A study of relevant cases'. The authors can instead try to incorporate the various case laws within the commentary. On the whole, this is a good book for a beginner. Any aspiring patent agent will stand to benefit from it.