

HELLO

Series of brief newsletters released by Bharucha & Co. on latest development of IP predominantly in Pakistan.

IP TRIBUNALS ESTABLISHED IN PAKISTAN

Originally the Intellectual Property offices in Pakistan (The Patents Office, The Trade Marks Registry and The Copyright Office) were under the control of three different ministries. In order to bring all the Intellectual Property offices under one roof, in the year 2005 the Intellectual Property Organization of Pakistan (IPO-P) was established under the supervision of the Cabinet Division of the Prime Minister of Pakistan. One of the purposes of IPO-P is to provide for an institutional arrangement in the state set-up for taking up exclusively and comprehensively all subjects and matters relating to intellectual property rights in an integrated manner and for matters connected therewith or incidental thereto. In line with the said policy the Government enacted the Intellectual Property Organization of Pakistan Act, 2012 (the Act) which came into force with effect from 28th August, 2012, except for the provisions of Sections 15, 16, 17, 18 and 19 which were to come into force on such date as the Federal Government may, by notification in the official Gazette, appoint.

Now, the Federal Government has moved one step forward and brought into effect the provisions of Sections 15, 16, 17, 18 and 19. Furthermore, in exercise of powers conferred under the Act in December, 2014 the Government has established three (3) IP Tribunals one each in the provinces of Punjab and Sindh and one in Islamabad Capital.

The Tribunals have both civil and criminal jurisdictions. As for its civil jurisdiction it shall have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) and for criminal jurisdiction the Court of Sessions under the Code of Criminal Procedure, 1898 (Act V of 1898). The Tribunal shall in all matters with respect to which the procedure has not been provided for in the Act, follow the procedure laid down in the Code. All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860) and no court other than a Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under the Act.

Furthermore no court other than a Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under the Act. Additionally all suits and proceedings which are currently pending and instituted under the intellectual property laws in any court within the jurisdiction of the Tribunal stand transferred to the respective Tribunal. All such transferred cases shall proceed from the stage the same have reached prior to the transfer.

The Tribunal may, if it so requires, in technical aspects of intellectual property rights involved in any case, be assisted by an expert, who has experience and expertise in the matters of intellectual property rights.

Any person aggrieved by the final judgment and order of the Tribunal under the Act may, within thirty days of the final judgment or order of the Tribunal, prefer an appeal to the High Court having territorial jurisdiction over the Tribunal.



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According to a news item posted on the website of IPO-Pakistan dated October 01, 2015 the Federal Government has appointed Muhammad Khalid Nawaz (District & Sessions Judge), Mr. Shakil Ahmed Abbasi (Advocate) and Mr. Nisar Baig (Judge Accountability Court-II) as presiding officers for the three Tribunals in Punjab, Sindh and Islamabad respectively.

