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## **Meet with AGIP and TAG-Legal at INTA Annual Meeting 2017 in Barcelona**



Representatives from Regional Office (Amman, Jordan), Afghanistan, Algeria, Bahrain, Canada Liaison, China, Egypt, Hong Kong, Hungary Liaison, India, Iraq, Italy Liaison, Jordan, Kuwait, Lebanon, Libya, Morocco, Nigeria, Oman,

Pakistan, Palestine, Proposals Department, Qatar, Russia, Saudi Arabia, Special Clients Department, Sudan, TAG-Legal Regional Office, TAG-Legal Arab Countries, Turkey, Tunisia and UAE will be there to meet with our clients and gain a better understanding of their needs about IP matters in our region. INTA annual meeting will be held from May 20th till May 24th, 2017.

### **Find us at:**

Renaissance Barcelona Fira Hotel  
Plaza Europa, 50-52 L'Hospitalet de Llobregat  
Barcelona 08902 Spain  
Meeting rooms: Europa 3+4

In order to schedule a meeting, please contact us at: [inta@agip.com](mailto:inta@agip.com)

## AGIP Participated at 22<sup>nd</sup> European Intellectual Property Forum



PARIS – As one of the UNIFAB’s College of Experts, Abu-Ghazaleh Intellectual Property (AGIP) participated at the 22nd European Intellectual Property Forum, which was organized by Union des Fabricants (UNIFAB), in France, Paris, from 9th to 10th March 2017.

Ms. Dima Naber, AGIP’s Counsel and International Development and Marketing Director, represented AGIP at the forum which was held under the title: “The growth needs Intellectual Property”. The forum featured three half-day-long sessions of “Intellectual Property, An International Policy Issue?”, “Online Counterfeiting: Assessments, Consequences & Solutions” and “Boarding for a World Tour of Efficient Actions”.

The event brought together hundreds of attendees from governmental agencies, multinational corporations, law firms and various organizations. Ms. Dima Naber attended the event as speaker at the session: “Boarding for a World Tour of Efficient Actions”, where she highlighted on anti-counterfeiting procedures and solutions in Jordan.

Commenting on the event, Ms. Dima said: “Attending the 22<sup>nd</sup> European Intellectual Property Forum in Paris has provided a significant opportunity to meet with in-house and international lawyers to discuss their concerns in fighting counterfeiting in the Middle East region, and shape business strategies for a smarter protection in a fast-paced and ever-changing digital world.”

## Reduced Official Fees for Trademarks Registration in China

CHINA – The Ministry of Finance of the People’s Republic of China announced that the official fees for trademarks registration will be reduced 50%, while the official fees for recording software copyrights will be exempt.



This new policy will enter into force in China on April 1, 2017.

Accordingly, AGIP will amend its schedule of charges related to trademarks registration services in China.

For more information, please contact AGIP office in China at: [china@agip.com](mailto:china@agip.com)

## India Releases Trade Marks Amendments Rules 2017



NEW DELHI - The Department of Industrial Policy and Promotion, affiliated to the Ministry of Commerce and Industry in India has issued a notification on March 6, 2017 stipulating that the new amended trademark rules entered into force effective March 6, 2017.

The new Trade Marks Rules simplified the processes, by introducing fewer forms, and gave preference to online filings.

The major changes under the new rules are summarized as follows:

1. The official fees have been increased, almost doubled. Incentives on application fees have been provided for Individuals, Startups and Small Entities. Further, to encourage online filing of applications, a 10% fee concession will be offered.
2. The number of forms used for filings various applications has been reduced to only 8 forms, which are as follows:
  - a. TMA - Application for registration of any good/services
  - b. TM M - Request for any amendment in application, grounds of decision, expedite examination, request

for inclusion of a mark as well-known, authorization of an agent etc.

- c. TM R - All Renewal related matters
  - d. TM C - Application for Search and issuance of Certificate
  - e. TM O - All opposition matters
  - f. TM P - Applications to dissolve association, assignment; amendment for description of goods / services, etc.
  - g. TM U - Application for Registered users, etc.
  - h. TM G - Applications related for Trade mark Agent
3. The DIPP will now maintain a list of well-known trademarks. Any person can now request the Registrar for determination and adding their marks as well-known trademarks by paying the prescribed fees accompanied by a statement of case along with the evidences and documents.
  4. The number of adjournments has been restricted to two in the opposition proceedings by each party to help dispose matters speedily. Each adjournment shall not be for more than thirty days.
  5. An option of conducting hearings through video conferencing has been introduced.
  6. A provision for expedited process of an application has been introduced, under which the applicant may request for expedited processing of application by paying the prescribed fees, to which the application shall be examined within three months of filing such request. The following proceedings shall also be dealt with expeditiously subject to the guidelines decided by the Registrar, which shall be published in the trademarks Journal.



# How Fair Is The Fair Use?

**Rohit Singh and Tina Canneth**

Copyright protection is granted to authors of various types of works, inter alia, literary, dramatic, musical, computer programmes, cinematographic films and artistic works. The copyright protection provides a bundle of exclusive rights to its authors. Any use of such rights requires a permission from the author and a failure to obtain the same leads to infringement.

Between this black and white of copyright protection, exists a grey area – the fair use clause; which looks after the interest of public in accessing any protected work. This fair dealing / fair use permits the unauthorized copying of a copyrighted work, without getting into trouble, provided that the act of copying is for a larger good – in the interest of society.

The principle of ‘fair dealing’ is enshrined in Sections 39 and 52 of the Indian Copyrights Act. While section 39 deals with acts not infringing broadcast reproduction rights and performer’s rights, section 52 lists the acts that do not constitute infringement of copyright.

According to Section 52 the Fair dealing exception applies to the use of literary, dramatic, musical or artistic works in the context of:

- research or private study [52(1)(a)];
- a Government document or law [52(1)(d & e)];
- the public recitation of certain extracts of a work [52(1)(g)];
- the use of the work by educational institutions, teachers or students in the course of instruction [52(1)(i)];
- the use of the work by non-commercial clubs [52(1)(l)];
- using the work to report current events by way of newspapers, magazines, periodicals, radio, or through photographs in a cinematographic medium [52(1)(m)];

The scope of Section 52 has been widened by a legislative amendment in 2012 to include special exceptions with respect to the use of cinematographic works and sound recordings; the transient or incidental storage of electronic works that might occur in the process of electronic transmission or communications; the adaptation or modification of copyrighted work so as to be made more accessible to persons with disability; certain exceptions with respect to non-commercial public libraries; and technical drawings meant to be used in the construction of three-dimensional works.

Fair Dealing has not been defined in the Act. However, it is a legal doctrine which allows a user to make limited use of copyrighted work without the permission of the owner.

The High Court of Madras in *M/s. Blackwood & Sons Ltd. v. A.N. Parasuraman* in 1959 held that there should be no mens rea to compete with the copyright holder and derive benefits from the copyrighted work. For the defense of fair dealing to succeed, following two conditions should be met:

1. No mens rea to compete with the copyright holder;
2. There should be no improper use of the copyrighted work.

The High Court of Delhi in *The Chancellor, Masters & Scholars of the University of Oxford & Ors. Vs. Rameshwari Photocopy Services & Anr* (September 2016) recognized the socio-economic realities of India by upholding the access to education. The Leading publishers, Oxford University Press (OUP), Cambridge University Press (CUP) and Taylo & Francis (T&F) filed a lawsuit against Delhi University and Rameshwari Photocopy Service, the licensed photocopier for creating and distributing course packs to the students of the University. The defendant was making course-packs by photocopying and compiling major portions from relevant textbooks.

The Court noted that there no dissimilarity between a student issuing a book from the University of Delhi and copying the same and the defendant doing the same job, as long as the copy was made for private use.

It was held that the defendant was not a competitor as they were only making compilations of small portions of prescribed textbooks. This was protected under Section 52 of the Copyrights Act.

The High Court of Delhi in *Syndicate Press of University of Cambridge v. Kasturi Lal & Sons* (2006) observed that: “Law should encourage enterprise, research and scholarship but such encouragement cannot come at the cost of the right of an individual to protect against the misappropriation of what is essentially a product of his intellect and ingenuity. The law encourages innovation and improvement but not plagiarism. Copyright is a form of protection and not a barrier against research and scholarship. Lifting portions of the original work and presenting it as one’s own creation can in no way be described as any form of bona fide enterprise or activity. Research and scholarship are easily distinguishable from imitation and plagiarism.”

Copyright laws play a vital role in the internet age, especially with respect to content creation. There is plethora of information that is available on internet, which might or might not be copyrighted. The reference to online Copyright issues can be found in The Copyrights Act 1957 and The Information Technology Act 2000 (IT Act).

The rise of the internet has led to developing a vast repository of data residing across servers, which constitute publicly available information. The process of automatically extracting information from publicly available servers is termed as data extraction. The process of data extraction can take a toll on the resources of the websites, which try to impede this process by using various technologies, like CAPTCHA.

Data extraction involves copying and therefore activating the Copyright laws. Section 52(aa) of the Copyright Act allows copying or making backup copies or adaptation for the purposes for which the program was supplied to the user. Also, it is allowed to make back-up copies as a temporary protection against loss, destruction or damage to use the program for the purposes for which the program was supplied.

Section 10A of the IT Act relate to the validity of contracts formed through electronic means on the internet. So the formation of contract is solely by electronic means, by virtue of which a liability for all infringing actions can be assessed.

The concept of fair dealing is still at a very nascent stage in India and requires a strict analysis of approach in interpreting (strict or liberal) the fair dealing clause. A probable reason for adopting the fair dealing doctrine is that India attaches tremendous importance to research and study. Indian Courts need to develop the distinctive features of its fair dealing regime as the Copyright jurisprudence is waiting to be further developed to address fundamental issues about the purpose, meaning and application of the Indian law on fair dealing.

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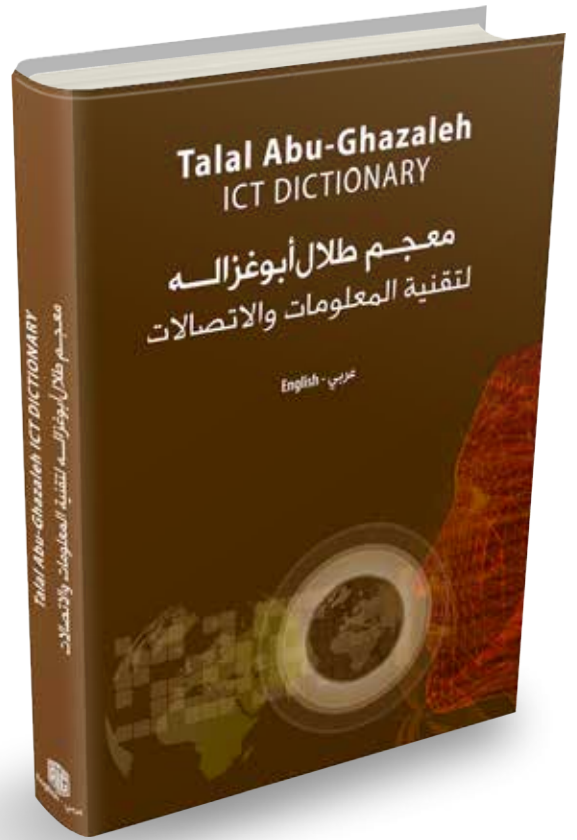
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Mrs. Iman Salameh

# Second Updated Version of TAG-ICT Dictionary Issued



AMMAN - Talal Abu-Ghazaleh Organization (TAG-Org) has issued the second updated version of TAG-ICT Dictionary, after updating its input and inserting a new set of terms used in daily life, due to the fact that past months witnessed the launch of a large number of concepts, terms, technologies, application and protocols of communication.

HE Dr. Talal Abu-Ghazaleh, TAG-Org chairman, said in the dictionary introduction that ICT plays a significant role in our life, and helps our society change into a Knowledge society.

He added that the contribution value of individuals or groups is measured by the contributions produced by thought and innovation.

For example, it has been easy and necessary to teach the new generation throughout all stages, using electronic means.

Dr. Abu-Ghazaleh reiterated his intention to continue updating and developing the dictionaries issued by TAG-Org which are, in addition to TAG-ICT Dictionary: Talal Abu-Ghazaleh Intellectual Property Dictionary, TAG Dictionary of Legal Terms, TAG Accountancy and Business Dictionary, Talal Abu-Ghazaleh Dictionary of Patents and Talal Abu-Ghazaleh Collocations Dictionary.

He also explained that these publications aim at enriching the Arabic language references, and contribute to knowledge dissemination amongst students and all business sectors, through specialized scientific and professional publications.

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