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WITNESS

Volume 6 Issue 11 | June 2015

₹65 US \$6 UK £4

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TRIUMPH WITH SUBTLENESS

There are seldom moments and people that exhibit a magnanimous presence without being loud. Lex Witness gets into an unexplored luminary, Saikrishna Rajagopal, Managing Partner, Saikrishna & Associates. Right from his school days to what it is today. Read On...

Going back to your days in school, when did you identify law as your passion?

To begin with, my mind was set on becoming a Chartered Accountant, following in the footsteps of a famous sibling (Mr. Unni Rajagopal) who has done well for himself as a Chartered Accountant. During the holidays that followed my Class 12 exams, my brother's partner, Mr. D. Devaraj (a person whom I owe much to for having so uncannily played a defining role in my educational choices) drew my attention to the entrance exam of the National Law School of India University almost with a view to making more productive use of my vacations. Miraculously, I made it, albeit as a waitlisted candidate, making me gratefully owe my Law Degree to those who decided to pursue other courses. More than Law being a passion, I joined the Law School because it gave me an opportunity to study in an institution that was being touted 'as the Harvard of the East'. It was only much later that I realized that I had 'chosen' well!

Why is that IPR was the first hat you held amongst all others?

Once again, the decision to choose IPR as a practice area was not one that was dictated by any particular interest or liking for the subject. I was very keen to be a litigator and having done a little mooted while in Law School, I was convinced that I had all the attributes to be arguing with no difficulty in Court! I however realized how wrong I was in the days that followed! I had the privilege of interning with Anand and Anand in my 4th & 5th years in Law School and I realized that the Firm provided so much opportunity to its Lawyers to stand up and argue. It was really the prospect of getting so much visibility in Court and the need to have a

retainer that would allow me to get married barely a few weeks after passing out from law school, which clinched my choice of specialization. I was convinced that once I got the right opportunities, I would be in a position to quickly adapt to other areas of Law. I was therefore more focused on the Firm and the potential opportunities that it offered rather than any particular area of practice

How has the experience been so far to build up Saikrishna & Associates?

The experience has been fantastic and has led me to evolve both personally and professionally. More importantly, it has taught me the importance of first trying to be a good human being, to inspire the confidence of clients and colleagues in the Firm. I have come to learn that more than mere competence (which I believe is available in abundance), one also needs to

biggest challenges is to be in a position to efficiently divide the time I spend on administration and my passion, litigation.

b. To retain lawyers and support staff as a cohesive unit and continue to show them a viable future in the Firm.

c. There is always a temptation to emulate the marketing initiatives of competitors, particularly when comparisons are drawn as a result of Law Firm surveys. One cannot over emphasize the importance of not being distracted by the successes of competitors. In my experience, while one must learn from mistakes of others, to be derailed from one's chosen path because of another's success, only leads to more frustration and stagnation.

d. To manage the aspirations and creative egos of multiple talents in the Firm, particularly, the task of making each talent

As a Managing Partner, one of my biggest challenges is to be in a position to efficiently divide the time I spend on administration and my passion, litigation

be a nice guy or at least act like one! For a person who has never believed in long term goal setting or aspirations, the growth of the Firm in the last 14 years from a one lawyer residence office, to a Firm of 10 partners & 70 lawyers has indeed been a journey filled with lots of fun and little regret. The challenge however is to maintain the same standards of quality and cohesiveness despite the pace of growth.

If you had to list down the major challenges while building up a firm, what would those be?

a. As a Managing Partner, one of my

believe that they have a place in the Firm.

e. As the Firm grows, so will more conflicts arise between positions taken on behalf of various clients. Juggling and managing such conflicts is now becoming a fine art. As a small Firm, one can afford to be a lot more indifferent and unaffected by issues posed by conflict.

As a Managing Partner, which practice areas of the firm are you more passionate about?

I am a litigator first and foremost and live and breathe litigation. So naturally, litigation, particularly arguing matters, is a

passion and calling I identify with most. A close second is the Media & Entertainment practice at the firm which keeps us all involved with complex and hitherto unsettled issues, through the year. A crucial strength of the Firm is that our various partners complement each other's strengths and weaknesses without stepping on each other's toes. The fact that we all have distinct passions and areas of interest has contributed immensely to the success of the Firm.

As a plan of diversification, what new areas would you like to add on to the firm?

The Firm originally started as an IP enforcement boutique and since then has continued to add new practice verticals ranging from soft IP prosecution to patent

years in the real estate, technology/telecom, film, infrastructure and automotive components sectors. Finally, about a year ago we included a corporate team which now allows us to advise our valued clients on general corporate / commercial matters particularly around the hospitality and real estate sectors.

I think while the firm will continue to develop and grow new practice areas, the firm's IP core will continue to signify not only the origin of the firm but the bedrock of the firm.

What do you think about the mushrooming of law firms in India?

The mushrooming of Law Firms is also a clear indicator of legal practice in India transiting from an individual lawyer to a more organized setup in which the client

that has contributed to the growth of smaller Firms is that clients now are more ready to engage with multiple legal vendors depending on the nature and complexity of the issue involved. In the past, clients had one go-to Firm regardless of the nature or complexity of the advise. As one client once remarked to me 'we don't believe in using a Rolls Royce for going to Chandni Chowk!' This succinctly sums up why so many new Firms have mushroomed with so much opportunity going around to service big names in the industry. I also think that the growth in the number of Law Firms have allowed lawyers who have not inherited legal practices to find a place under the sun. This is particularly more pronounced in the litigation space.

How different is the Indian Legal Industry compared to the West?

A single differentiating factor between the Indian and western legal models arises from fee arrangement practices. Indian fee arrangements practices tend to be in the nature of lump sum based (even though law firms may work backwards to base such arrangements on their hourly billing rates). To further clarify, while hourly billing arrangements do exist in India, increasingly clients in India request lump sum arrangements to meet cost and value expectations.

While the Indian legal industry has benefitted tremendously from the law firm model, individual lawyers continue to outnumber law firms in India. This naturally means a lack of uniformity in quality and cost of service. Indian Law Firms working with their counterparts in other jurisdictions have the opportunity to imbibe best practices and adapt such practices to suit the Indian environment. This gives international clients far greater comfort while at the same time, greatly enhancing competitiveness of Indian Law Firms.

Finally, the emphasis on high quality legal education needs to be ramped up drastically in India if we are to produce lawyers who are consistently as well grounded in the law as their western counterparts.

My earliest memory of an inspiring moment in the courtroom was in my first month of practice. This was a time when I fervently prayed that my senior would not turn up in Court giving me an opportunity to exhibit my mooting skills! The Judge thankfully turned down a request for a 'passover' and my first opportunity to make a 'mark' fell into my lap. The Judge was extremely gracious and quickly realized that I was an 'L-Board'. In order to comfort my senior who had arrived on the scene by then, she first dictated the operative portion of the order (in favour of my client) and then proceeded to record reasons!

prosecution. About 4 years ago, the firm set up a commercial IP practice which assists clients with their IP related transactional requirements in Technology, e-commerce, hospitality, Film, Music, Print publishing and software. In addition to the commercial IP team, the firm also expanded and set up a full-fledged competition law team which has been involved with significant competition law matters over the past 1 ½

can depend on more than just one person. Clients today have far greater choice in terms of talent which comes at an affordable and realistic fee threshold. The events of 2009 and prevailing economic compulsions irretrievably changed law firm client billing relationships in the sense that clients now look for a lot more comfort on the billing side without sacrificing quality and competence. Another noticeable feature



Your Strengths - My competitors invariably underestimate me and I overestimate them!

Your Weaknesses - Biryani of all kinds!

Your Favourite Gadget - iPhone

Your Favourite Writing Instrument - Waterman

Your Favourite Automobile - Volkswagen Beetle

All Time Cuisine - Chinese

Preferred Holiday Destination - Bali

What do you feel about IPR and its trend patterns in India Inc. so far?

The fact that the Government of India is now moving to frame a National IP Policy is indicative of the importance of IP in India. While Indian courts have been extremely supportive of IP rights, the courts have equally expressed a keenness to examine the extent of limitations and exceptions to IP ownership and rights. The 'make in India' program pursued by the Government will also in my view, boost IP creation in India. Unfortunately, piracy levels in India are still a matter of concern and I hope that the proposed National IP policy helps to streamline and prioritise anti-piracy efforts among the various enforcement arms in India. In terms of concerns, I see a gradual encroachment by other legislations such as

the TRAI Act into spaces occupied for instance by the Copyright Act, 1957 and in this context I do hope that the Government will recognise that IP statutes are self-contained codes which should ideally be left alone rather than being occupied by sectoral legislations.

How do you look at the IPR scenarios in the country about a decade from now?

On the whole, I have a positive outlook. However this remains, as always, contingent on the steps the Government takes to shore up "IP confidence" in India as well as internationally. The recent step to frame the National IP policy is a positive step and again one hopes that implementation of the policy as and when it is finalised and blessed by the executive, will be consistent and diligent. To say the

least, IP owners will need to support the Government's efforts to improve IP protection, particularly since India is a developing country with priorities that are quite different from that of a developed economy. This "balancing act" will be critical for IP creation and protection to flourish in India.

If you had to list down the 3 most inspiring moments in the courtroom, which ones would they be?

My earliest memory of an inspiring moment in the courtroom was in my first month of practice. This was a time when I fervently prayed that my senior would not turn up in Court giving me an opportunity to exhibit my mootng skills! The Judge thankfully turned down a request for a 'passover' and my first opportunity to make a 'mark' fell into my lap. The Judge was extremely gracious and quickly realized that I was an 'L-Board'. In order to comfort my senior who had arrived on the scene by then, she first dictated the operative portion of the order (in favour of my client) and then proceeded to record reasons! The other occasions that come to mind are my submissions in the Delhi University Course-Packs Case, Tata Vs. Greenpeace and the Constitutional challenge relating to Section 79 (3) (b) of the IT Act before the Hon'ble Supreme Court of India. Each of these cases presented a unique challenge which will remain etched as an unforgettable memory in the course of my career.

Your message to the nextgen lawyers.

During an internship that I had early on in my time as a law student with the legendary Govind Swaminathan, in the Madras High Court, he told me something that left a tremendous impression on me. He impressed on me the importance of being a nice guy. Reputation begins to be built very early on in one's career and it is this impression that your peers / contemporaries who go onto become Judges or senior members in the profession, carry with them. A good career invariably follows one with a good reputation, average intelligence, some luck and an interest beyond the law. 