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Inadvertent Disclosures of Inventions in Social Media Affecting Patent Rights

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Biographical Sketch of A. Vijayalakshmi Venugopal

She is the author of 3 books and numerous articles on law. She has also presented papers in national and international conferences on law and education.

Abstract: Patents allow owners to control the commercial exploitation of their inventions. This is particularly important when the invention has significant commercial value. Inventors are likely to be careful about sharing confidential information about the invention during the developmental stage. People are often less careful about sharing information on social media as this is perceived as a social platform. Inadvertent disclosures about inventions on social media, however, can result in subsequent patent applications being rejected. This article explores why such risks arise, the legal conditions involved and how to manage these risks.

Keywords: law; intellectual property; patents; social media; inadvertent disclosures

Introduction

Many of us are very generous with what we share about our lives on social media. This can extend to many facets of our lives, including what is happening at work. This may happen casually without careful consideration, as the expectation is that it is merely sharing personal details with trusted family members and friends. However, this tendency, coupled with insufficient monitoring of privacy settings for our social media accounts can result in what we shared being re-shared to a much broader network. Each commercial research and development project can involve many people and take a long time. During this stressful and arduous process, such people may share their frustrations and breakthroughs with their social media contacts. What may not be realised is that disclosing confidential details about inventions while the inventions are still being conceptualised and developed can be a significant risk, not just that business competitors may attempt to replicate such research, but also that this can affect whether the inventor may be able to obtain a patent for the invention once it is ready.

Popularity of Social Media

Statista¹ writes that, "The lovechild of the World Wide Web is social media, which comes in many forms, including blogs, forums, business networks, photo-sharing platforms, social gaming, microblogs, chat apps, and last but not least social networks." Gaile² wrote, "The presence of the social media is currently seen in the

¹ Statista (The Statistics Portal), Statistics and facts about Social Networks, <https://www.statista.com/topics/1164/social-networks/>, accessed 10 January 2017.

² Gaile, Sandra Murinska, The Role and Functions of Social Media in Modern Society. Is Social Media Worthwhile for Local Media? [2013] 6 Journalism Research, at page .

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