**All India Association of Industries**

**Unfair Competition Act to protect rights of genuine IT users in Manufacturing MSMEs**

Indian economy on a large scale depends on export to and import from other countries. Post liberalization, there has been a significant increase in India’s exports. Some major trading partners of India are European Union, China USA and UAE. USA is one of the biggest importers of Indian goods and services. It imported $40.5 billion worth of Indian goods in 2012. The major items imported by USA from India are IT services, textiles, gems and jewellery, chemical, iron and steel product, coffee, tea etc. Micro Small and Medium Enterprises (MSME) have a significant share in India’s economy. MSMEs account for about 45% of India’s manufacturing output and 40 % exports, and provide employment to about 100 million people.

Increasing Globalization has given an opportunity for the industries to cross boundaries and trade with the best partners, without border constraints. But this has also increased complexities over the years. To reduce these complexities and maintain standards in business, certain compliance and regulations are being followed by companies worldwide. One such compliance which has been enacted in United States of America, in the recent times is the new Unfair Competition Act (UCA). UCA has been enacted to protect the right of genuine Information Technology users, against those trying to take financial advantage by unjust means, using stolen and pirated IT.

UCA mandates manufacturer exporters who sell their products to any of the US states, where UCA is enacted to stop using stolen or misappropriated software (e.g. pirated or unlicensed software). [[1]](#footnote-2) The act has currently been enacted in Washington and Louisiana. Along with these two states, Attorney- Generals of 36 states and 3 territories in USA have written to the Federal Trade Commission requesting a better enforcement of the existing Federal Trade Commission Act to prevent such unfair competition at the federal level.

IT is a significant factor for productivity and efficiency of manufacturing firms. IT has been a major contributor towards the growth and development of Indian MSMEs , hence UCA is very significant for Indian MSMEs. As usage of IT across the globe is increasing, this is also giving rise to unfair competition due to use of illegal IT in the manufacturing process. UCA provides a level playing field for genuine users of software.

**Low IT piracy rate –an advantage for India**

UCA restricts the import of manufactured items that were produced with the stolen or illegal IT to USA. UCA provides the state governments of USA, power to track down firms, if they are found to be trading with any of its suppliers who use illegal or pirated IT, this applies for the entire value chain of the product. UCA clearly says that the states where UCA has been enacted can take action against those US companies, who are found doing business with companies using pirated software. Therefor US buyers will obviously look for countries where software piracy is comparatively low. As per “Emerging opportunity for Indian Manufacturing Exports”, a book jointly launched by ASSOCHAM and IIFT, India has been facing tough competition from countries like China, Canada, Mexico, Japan, Saudi Arabia, Ireland etc., the book further states that the compliance of Indian enterprises to UCA is urgent and necessary to ensure that they do not incur losses when exporting their products to the US market.



Dr EMS Natchiappan, Minister of State, Commerce & Industry, speaking on the occasion of Book launch “Emerging opportunity for Indian Manufacturing Exports” event organized by ASSOCHAM and IIFT in New Delhi

According to ‘Global Piracy Study’ by Business Software Alliance (BSA), the software piracy rate in India in 2012 was 64 %, which was lower to its competitors like China (79%), Bangladesh (90%), Sri Lanka (86%) etc. As pet the graph below, the software piracy rate in India is lower than a lot of other Asian exporter countries, and the graph also shows a decreasing trend in software piracy in most of the countries.

Due to lower piracy rate in India, it is the most favored substitute for the business lost in other countries, due to piracy. Hence UCA can be seen as an opportunity by the Indian exporters, to grab a significant share in the US market.

**Indian Exporters Should Grab this opportunity**

In the context of UCA in USA, India’s manufacturing exporters position seems to be critical, since they enjoy a fair position in the US import market.

“US being a key export market for India, it is critical that exporters review the software used in their supply chain to ensure license compliance and abide by the law. Risking loss of trade is simply not an option” says Ms Tamanna Chaturved, consultant Indian Institute of Foreign trade

We also need to understand that India is in advantageous position as its competent player China, enjoys a much better share in USA than India but has higher rate of illegal IT usage. So it is right to comment that the faster the Indian exporters switch to legal IT and improvise or increase their IT usage, they can grab a very huge market in USA.

Now the question arrives what can Indian companies do? And the simple answer is to go legal! Indian companies should transform to genuine IT users as soon as possible and this can be done by them in a number of ways, right from conducting software asset audits to making themselves more visible by being verafirm certified.

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[www.verafirm.com](http://www.verafirm.com) Verafirm is a worldwide on-line voluntary computer software license compliance program – launched by the BSA . The program is developed in association with software publishers, the program accommodates different sorts of licensing structures and terminology. Firms can become Verafirm-Registered, Verafirm-Verified or Verafirm-Licensed – depending on the type of registration, each offering its unique set of positive aspects and benefits. The registration is free. After registration the registrants will acquire a digital “badge” which they can use to market their products.

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1. <http://www.kpmg.com/IN/en/IssuesAndInsights/ArticlesPublications/Documents/New-UCA-law-Final.pdf> [↑](#footnote-ref-2)