

## ***New U.S. Unfair Competition Laws Require "IT Compliance" From Manufacturers Who Export***



***Laws, aimed at preventing unfair competition and promote global fair trade practices, require manufacturers who export their products to U.S. to show compliance to software licenses. Non-Compliance may lead to financial liability and injunctions against sales.***

**News Update, January 2012:** AMCHAM is providing an update to members and manufacturers in view of the latest State of the Union Address made by U.S. President, Mr. Barack Obama to the country on 24<sup>th</sup> January 2012. In that address, Mr. Obama highlighted unfair trade practices in global manufacturing, with a focus on software piracy, and announced the creation of a Trade Enforcement Unit that will be charged with investigating unfair trade practices in countries (with a focus on China) who don't play by the rules, and check for cross-border IP violations. This is a direct reference to the enforcement of unfair competition laws from the highest office in U.S. and therefore, Indian manufacturers must take corrective steps pro-actively to prevent export losses.

New Delhi, November, 2011: In a recent development, U.S. has passed new Unfair Competition laws which impact manufacturers worldwide who sell their products to U.S. While, the first laws were passed in the States of Washington & Louisiana, on 4<sup>th</sup> November, 2011, Attorney Generals of 39 U.S. States have signed a resolution to combat unfair trade practices in manufacturing by preventing usage of illegal or stolen IT (i.e. non-genuine & unlicensed software), which provides an unfair advantage in the market place. The Attorney Generals have also urged the Federal Trade Commission (FTC) to consider a Federal Unfair Competition Law to prevent IT Theft.

IT is an enabler, making manufacturers more efficient, productive, and competitive in the market. However, companies gain unfair advantage when they use unlicensed or illegal software and create unfair competitive environment. It is similar to running a business which is non-compliant on labour, environmental, tax laws etc.

AMCHAM urges Indian Manufacturers to review their software license usage and ensure full compliance throughout their businesses, to avoid business disruption to the U.S. markets and other liabilities. AMCHAM recommends Software Asset Management (SAM) principles as a global best practice.

It is desirable that Indian Manufacturing Industry promotes ethical usage of IT products and improves their global business competitiveness. These new laws support manufacturers who govern their businesses with high standards of legal and ethical compliance and wish to retain access to U.S. markets.

### ***How does it impact your exports business?***

1. If you are a manufacturer who exports to U.S. markets, directly or indirectly.
2. If you use computers and software products to run your business.
3. If you do not have sufficient documentation to show usage of legal and licensed software.
4. If you don't have robust license procurement, usage, management practices in your organization.

### ***What are the benefits of software compliance?***

- ***Differentiate*** yourself in the marketplace. Gain a competitive advantage over manufacturers who use unlicensed software.
- ***Safeguard*** your business from potential disruption.
- ***Strengthen*** relations with your U.S. trade partners.
- ***Enhance*** your global reputation.

**IMPORTANT** - For more expert information, solutions, and general guidance, please access the following public Unfair Competition advisories as below, or contact your local software publisher representative regarding necessary software compliance formalities and certifications.

<http://www.kpmg.com/IN/en/IssuesAndInsights/ArticlesPublications/Pages/NewUCAlaw.aspx>  
[http://www.unidoicamt.org/Intellectual\\_Property\\_Rights\\_Blog\\_Details.aspx?Blog\\_Id=8](http://www.unidoicamt.org/Intellectual_Property_Rights_Blog_Details.aspx?Blog_Id=8)