THE SOVEREIGN

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SPECIAL ISSUE ON WORLD INTELLECTUAL PROPERTY DAY

"Intellectual property is an important legal and cultural issue. Society as a whole has complex issues to face here: private ownership vs. open source, and so on."

~Tim Berners-Lee

World Intellectual Property Day 2021 shines a light on the critical role of small and medium-sized enterprises (SMEs) in the economy and how they can use intellectual property (IP) rights to build stronger, more competitive and resilient businesses. With this issue ISLR aims to create awareness about the various aspects of Intellectual Property affecting public health, the pharmaceutical industry, usage of artificial intelligence and its introduction in dispute resolution. This issue also looks into these domains and thereby gives the reader an analytical view on the intersection of IP with the innovations in these fields.

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Editor's Note

The purpose of this newsletter is to provide our readers a compilation of ideas and events which are peculiar to each month. This newsletter is thoughtfully designed to cater to the needs of law faculties, students, and professionals. This month's newsletter is dedicated to the International IPR Day celebrated on 26th April 2021. The newsletter consists of various articles which introspect different aspects of Intellectual Property Rights and their application in current times. We also have a section that will provide our readers contemporary legal news and questions which will be beneficial for students preparing for entrance and other exams.

Happy Reading!!

About ISLR

Indian Society for Legal Research (ISLR) is a rapidly growing community of niche academicians, thinkers, activists, lawyers, professors, legal volunteers, paralegals and legal entrepreneurs who stand apart from the rest of the community with their zeal for deep thinking, leadership skills, and dedication for bringing innovation to the legal field.

Previously, ISLR has conducted First Global Ambassadors Programme (2019-20) and an empirical survey of the judgments of the ICJ and the PCIJ. ISLR has also offered one month online certificate course for UG & PG students on International Courts & Tribunals, International Humanitarian Law and Merger & Acquisition. ISLR published first blog series titled "Mapping the Constitutions". In this blog series the authors have analysed the various aspects of almost 179 constitutions. ISLR has succeffuly conducted First Virtual Summer School on International Legal System in the Age of Pandemic, 2020.

SECOND MEDICAL USE PATENTS – CHALLENGES TO PUBLIC HEALTH IN THE DEVELOPING WORLD

Origin and Scope

Second medical use patents are those that are granted for a new use of an already existing product. Usually, a second medical use can be identified through two ways – i) when the doctor who prescribes a particular drug realises that the drug can be used to treat an ailment altogether different from one which it is intended for; and ii) pharmaceutical companies conduct organised and coordinated research on drugs that are already in existence to identify new uses. The research and other expenditure involved in identifying a new property or a new use of an already existing drug is much lesser than the expenditure involved in developing a new drug altogether. For this reason, the concept of second medical use is popular among competitors in the pharmaceutical industries as it reduces their costs. India continues to remain one of the staunchest opponents of the second medical use patent regime. With the advent of the World Trade Organization's (WTO) TRIPS Agreement in 1995, it became mandatory for all countries to begin the grant of pharmaceutical patents by 2005. Article 27(1) of the TRIPS Agreement, which requires the member countries to implement a patent regime is silent on whether the grant of second medical use patents is mandatory. Consequently, there has been a wide disparity among jurisdictions with respect to the grant of second medical use patents. While developed countries like the US and the European Union permit the grant of second medical use patents, developing countries in Asia and Latin America do not do so. For instance, the Indian law most explicitly denies second medical use patents under Section 3(d) of the Patents Act, 1970. The reason is that grant of second medical use patents would be a huge limitation for countries like India which had had a thriving generic medicine market due to their prohibition on product patents before TRIPS. However, the developing nations are being increasingly forced by developed nations to agree to the grant of second medical use patents through 'TRIPS Plus' and 'TRIPS Extra' conditions that are imposed via the Free Trade Agreements (FTAs).

The Indian Experience

The Patents Act, 1970, that governs the grant of patents India is one of few patent law legislations in the world that explicitly prohibit patent for second medical use. This provision clearly states that mere discovery of a new use or a new property of an existing product cannot be patented unless it can be proved with clinical data that the new property/new use substantially increases the efficacy of the product. The explanation to the provision states that salts, esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, and mixtures of isomers, complexes, combinations and other derivatives of a known substance are to be considered as the "same substance" for the purposes of the Act and a new patent cannot be claimed for any of them unless it can be proven that they differ significantly with respect to their properties and efficacy. Therefore, a new chemical form of an existing pharmaceutical product shall not be protected by the Indian patent regime. The apparent legislative intent behind drafting a narrow provision such as this appears to be to prevent "evergreening" – a situation where a holder of a particular patent is granted a renewal because of the identification of a new property or new use of the same product. This provision would therefore help the generic medicine industry to identify second use of an already existing drug in the market and subsequently manufacture them for cheaper prices

As an indicator of the dissatisfaction of the pharmaceutical companies over this narrow provision, a petition was filed by Novartis AG in the Madras High Court in 2006 against the Union of India, on the ground that Section 3(d) of the Patents Act was violative of Article 27(2) of the TRIPS Agreement. While the case was dismissed due to lack of jurisdiction by the High Court, the arguments that were raised are worthy of appraisal. It was argued that since the TRIPS Agreement sought to bring harmonisation of patent law among various nations, India should follow the international trend on the issue and grant patents for second medical use. While the TRIPS Agreement requires countries to introduce a patent regime, it does not require that the patent law of all countries shall be identical. Furthermore, nothing in the TRIPS Agreement prevents countries from shaping their patent regime to suit their aspirations.

It was also argued that excluding second medical use from patentability would amount discrimination of a 'field of technology'. This argument is based on an incorrect understanding of the phrase 'field of technology'. Second medical use of a known pharmaceutical products is a minor part of the pharmaceutical industry and can by no stretch of logic or imagination be technically called a 'field of technology' in itself. With the Indian judiciary not equipped to deal with the question of violation of TRIPS, it is possible that India might be taken to the WTO for the resolution of this issue. The subsequent Special Leave Petition instituted by Novartis in the Supreme Court of India did not deal with the question of violation of TRIPS.

The Way Forward

The introduction of patent regime was basically intended to reward the inventors and thereby encourage research. However, this intention plays out differently in different countries. In developed countries, people generally are protected by government health care or private insurance and hence the expensive pharmaceutical needs are taken care of the government on behalf of the people. In stark contrast, the citizens of many developing countries do not have or have very little coverage through government health care and are almost in no position to afford private insurance. In such circumstances, generic medicine comes to the rescue as it offers some respite to consumers by offering substantially low prices. Granting patents to second medical uses of known pharmaceutical products would shoot up the costs of drugs and would crush the generic medicine market. Therefore, it is crucial for the public health of developing nations that second medical use patents are disallowed. Granting monopoly over the production of possibly lifesaving pharmaceuticals albeit for a limited period, has the effect of these products being sold at exorbitant prices since the holders of the patent have no competition in the market. This poses a great threat to people of developing countries most of whom are living barely above the poverty line. Therefore, it is desirable, at least for developing nations to provide a competitive environment for pharmaceuticals so as to relieve the common consumers. Furthermore, since identifying second medical use of a product does not involve as much expenditure and research as it is required to produce a new drug, granting them the same amount

of protection as new inventions defeats the purpose of patent law since it incentivises persons to involve in less expensive research on second medical use rather than on new products. Therefore, there is a necessity to balance the interests of the developing nations as well as the goals of the patent regime in order to ensure that research is encouraged without any obstruction to the aspirations and interests of the developing nations.

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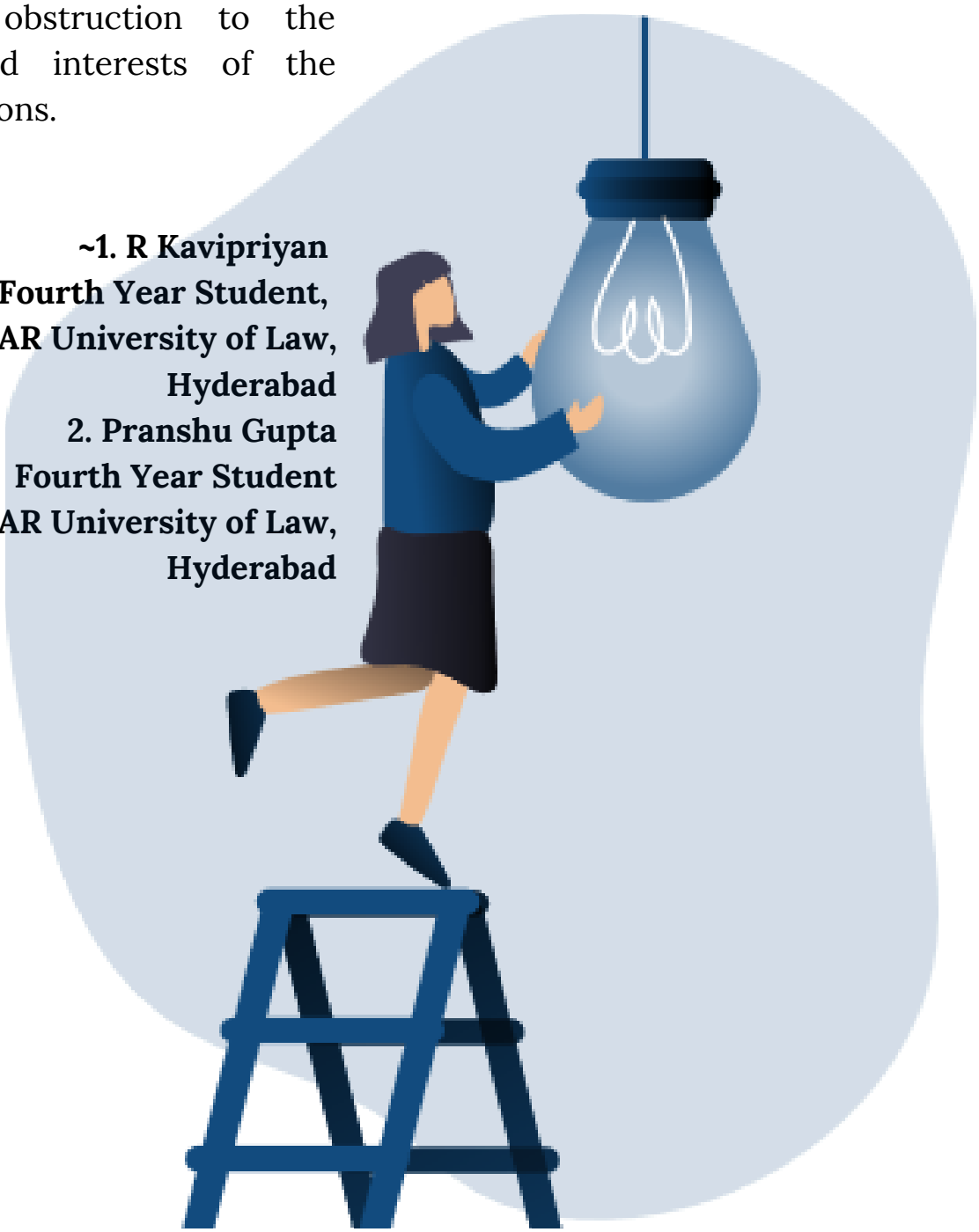

ARTIFICIAL INTELLIGENCE AND INTELLECTUAL PROPERTY IN INDIA

Introduction

This article briefly explains the role played by Intellectual Property (IP) Laws in India to measure the extent to which Artificial Intelligence (AI) can be experimented. The main objective of these laws is to encourage new innovations and inventions. The capacity of AI to develop and innovate is boundless and in future it will progress to change the world in diverse ways. With the rapid evolution of AI, it has the potential to be beneficial for business and individuals in everyday lives. However, with the development of AI, the risk of machines outsmarting humans increases.

Further the IPR statutes related to AI, which includes few provisions from the Patents Act 1970 and the Indian Copyright Act 1957, are also discussed. Our laws are not designed in a way to deal with the problems arising with the evolution of AI. Therefore there is a need for drafting new laws to deal with the problems relating to ownership and other problems arising due to the advancement of AI. The laws should be drafted clearly to define the liability for the mishaps of AI. The liability usually falls on the creator or programmer; therefore there is a need to remove loopholes in the statutes. It further discusses about the issues in granting a separate legal status to AI in India.

Correlation between AI and IPR

In the post pandemic world Artificial Intelligence (AI) is gaining more significance than ever as many countries and companies are experimenting the extent to which it is unassailable. AI systems have evolved from performing simple calculations to poetry, art work and many other forms of creative work. Intellectual property (IP) systems should be used to reward AI generated creations as the fundamental goals of both of them have always been to encourage new and creative technologies.

In India, prior to the landmark judgement of Delhi High Court in the case of ***Ferid Allani v. Union of India*** AI systems were categorised under computer related invention (CRI)

guidelines, which previously prohibited a computer program or algorithm from being patented. However in this case the Delhi High Court observed that a blanket ban on computer programs per se would be retrograde for all inventions including AI.

Further it is generally observed that the results and functions which are performed by the AI systems are ultimately the outcome of human analytical application process. However according to Section 3(k) of the Patents Act 1970, computer programs, mathematical formulae, algorithms and business methods are non-patentable inventions. This is because AI lacks legal status; therefore it cannot be granted ownership rights and cannot be held liable in case of any infringement.

According to Section 13 of the Indian Copyright Act 1957, a work to be literary, artistic, musical or dramatic must be an original work. The issue here is whether AI can create original work. It is generally observed that AI develops the compilation of already existing information. As a result of which AI may not pass the test of originality. In the case of ***Alfred Bell & Co. v. Catalda Fine Arts*** the court observed that a work should not be copied or plagiarized from other artistic works for it to be considered as original. The court further observed that any accidental variation in a work may be claimed by an author as own. Again in the case of ***Eastern Book Company v. D.B. Modak***, it was observed by the courts that the works of these machines can pass the test of originality. But for ownership of any copyrighted work, the author should fall under the ambit of 'Person' and AI is still not regarded as a legal person. Therefore a separate legal status seems cynical in India. Further, the courts have also not yet adjudicated upon the legal status of AI systems in India.

The major issue in granting IP Rights to AI is who would bear the criminal liability in case of any unfortunate circumstances. According to the current provisions the creator or the programmer shall be criminally liable despite his mens rea and actus reus. Thus it is important that these provisions are amended to adapt to the requirements of evolving society and science.

Conclusion and Recommendations

With the evolution of AI, the world has been divided into two groups. One group believes that AI will bring

developmental changes to lead an easy life which will enhance the quality of their life. Whereas the other group believes that AI will bring destruction to the human race by surpassing human intellect in all domains and such machines will start re-programming themselves to overpower the living beings present on the planet. It certainly has the magnitude to enhance the scope of innovation.

There needs to be a change in outlook in the present IP law provisions to engage AI systems framework. As the presence of AI in our lives is increasing day by day, there is a need for new laws and regulations to restrict and promote AI. In 2019, Bill gates very correctly said that 'AI is like nuclear energy – both promising and dangerous'.

AI should gain universal uniform recognition from all the countries. Provisions should be enacted to eliminate criminal liability on the creator for the actions of the AI in case of any unfortunate events. A separate legislation should be drafted which will remove the ambiguity present in the current law and provide proper remedies for both criminal and civil offences.

In the near future, AI systems are going to take over the world and will make human life much easier, which is going to make it difficult for us to ignore their importance and brilliance. Soon they cannot be denied their legal rights of IP protection solely on the basis that they are not legal persons. The world may soon be deployed by AI; it is preferable to be prepared for this age of science, innovation and technology.

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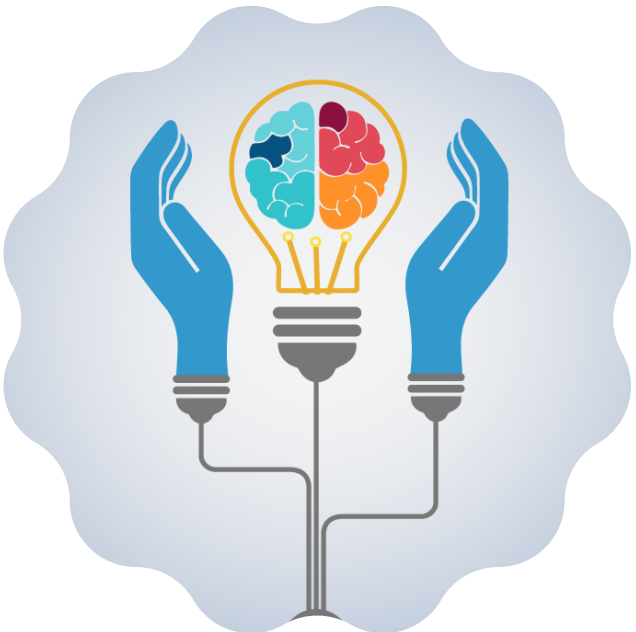

PRESENTING INTELLECTUAL PROPERTY RIGHTS WITH THE GIFT OF ONLINE DISPUTE RESOLUTION

Introduction:

This year, the International IPR Day bring to light, the need for an improvised mechanism in the field of Intellectual Property Right. The value of Intellectual Property (IP) is difficult to underestimate. This year International IPR Day, the IP legal fraternity should focus on advancing intellectual property goals through online dispute resolution.

Greek Philosopher Plato rightly stated that “a need or problem encourages creative efforts to meet the need or solve the problem” and processes are developed during times to cope with all types of subjective problems. However, problems frequently become more complex or difficult in other ways as they progress. As a result, the procedures for resolving those issues will need to advance as well. If a procedure has evolved smoothly in response to the increasing challenges posed by the issues it addresses, it can continue to be both efficient and effective. As a result, in the wake of the unfolding global pandemic, the IPR industry is faced with the need to create a solid online conflict settlement infrastructure. On the lines of aforesaid context, this article addresses the requisite need to implement online dispute resolution procedures for the settlement of claims relating to violations of an intellectual property holder's protected right and along with the benefits and challenges of its implementation on the way.

Intellectual Property Rights:

The subject matter of Intellectual Property (IP) is the result of the mind or the intellect. Like Patents; Trademarks; Geographical Indications; Industrial Designs; Layout-Designs (Topographies) of Integrated Circuits; Plant Variety Protection and Copyright etc.

With passing time ADR system got strengthened because of successful initiatives such as Domain Name Dispute Resolution Policy (UDRP) in which most types of trademark-based domain-name disputes must be resolved by agreement, court action, or arbitration before a registrar will cancel, suspend, or transfer a domain name and WIPO eADr which is an

online case management tool developed and managed by the WIPO Centre. It aims to facilitate the conduct of cases of WIPO ADR mechanisms.

Online Dispute Resolution (ODR)

Hon. Arthur M. Monty Ahalt (ret.) defined Online Dispute Resolution (ODR) as, "*ODR is a branch of dispute resolution which uses technology to facilitate the resolution of disputes between parties. It primarily involves negotiation, mediation or arbitration, or a combination of all three. In this respect, it is often seen as being the online equivalent of* ADR".

Benefits of ODR

(i) Asynchronous Communication:
When information may be shared without regard to time, it is referred to as asynchronous communication. It does not necessitate the recipient's urgent attention, allowing them to answer when it is convenient for them. This ensures that the parties and the impartial party don't have to communicate at the same time and can record their responses at their leisure. The slow-paced asynchronous communication allows the parties to consider out-of-the-box settlements, thus enhancing the consistency of the conversation.

(ii) Cost-Effective:
ODR will greatly minimise the costs of settling a conflict because it relies on video conferencing and technologies to exchange information.
For Example - If the conflict is solely over the amount of a monetary settlement, fully integrated cyber-mediation websites might be necessary to resolve it.

(iii) Flexibility in the New Virtual World:
Many procedural processes in ADR, from case conferences to procedural motions, can be completed electronically. Parties, lawyers, and consultants should not have to fly to courts, and disputes will be resolved regardless of where counsel or the tribunal is located.

(iv) Privacy and Confidentiality:
ADR is private in the sense that no one knows about it except the parties, who are therefore required not to discuss the arbitration with others outside the process. Parties settling their differences in arbitration, on the other hand, must seek sealing orders to protect the secrecy, which the courts are reluctant to allow due to the open court concept.

Challenges in Implementing ODR

Although ODR has strong protection and time-saving benefits, it also comes with several risks and drawbacks to consider:

1. Less fluid conversations, less involvement or strategic debate of topics, and more trouble interpreting body language are all disadvantages of not being in person.
2. A fully automated ADR mechanism can only be used to resolve specific types of disputes and, even then, can only handle disputes where the amount of the settlement is the only unresolved issue.
3. For those with insufficient Internet connectivity or who may find doing so uncomfortable or annoying, continuous Internet access for the amount of time it takes to settle a conflict is often a challenge.
4. It can also disadvantage those who are less familiar with computers and how to use them, as well as those who are unable to communicate in-depth in writing.

Prospects of ODR in India:

In the wake of the COVID-19 pandemic, the former Chief Justice, Justice Bobde, has emphasized on the importance of taking measures to make courts virtual to avoid the closure of the apex courts and also stressed on the need for making mediation agreements binding while recognising the many benefits of such a system of dispute resolution.

The Nilekani panel, which recommended the establishment of online dispute resolution systems to manage disputes arising from digital payments in 2019, initiated the discussion on a structured ODR system in India. The committee recommended that such an ODR platform have two levels: one automated and one person, as well as an appeals process.

NITI Aayog, in collaboration with Agami and Omidyar Network India, hosted a meeting on ‘Catalyzing Online Dispute Resolution in India,' where key stakeholders were brought together to work collaboratively to ensure that efforts are made to scale online dispute resolution in India. It was recognised that ODR holds great potential for India, especially for small and medium-value disputes, and that it can help to resolve these disputes.

Judicial Contribution:

There have also been occasions where the courts have recognised the importance of getting ODR systems in place throughout the board including Justice N. V. Ramana's statement expressing the potential of ODR which can be used to successfully resolve consumer, family, business and commercial disputes".

Cases Where the Supreme Court Has Directly or Indirectly Validated the Virtual Transformation of Dispute Resolution System:

(i) State of Maharashtra v Praful Desai (2003) 4 SCC 601:
The Supreme Court of India approved video-conferencing as a method of taking evidence and witness testimony in this case, also going so far as to call 'virtual reality the actual reality.'

(ii) Grid Corporation of Orissa Ltd. v AES Corporation (2003) 1 CALLT 50 SC
It was held by the court that since consultation could be accomplished by mobile media and online conferencing, people did not have to remain in the same physical room.

(iii) M/S Meters and Instruments Pvt. Ltd. vs. Kanchan Mehta AIR 2017 SC 4594
It was noted that there was a need to consider types of cases that could be resolved partially or completely "online" without the parties' physical involvement, and it proposed the resolution of simple cases such as traffic challans and check to bounce.

(iv) In a Suo Motu writ petition titled '**Expeditious hearing of cases under Section 138 of the N. I. Act, 1881**,' the Supreme Court noted the findings in Meters and Instruments Private Limited & Anr. vs. Kanchan Mehta 2017 SC 4594 that

"Use of modern technology needs to be considered not only for paperless courts but also to reduce overcrowding of courts. There appears to be a need to consider categories of cases which can be partly or entirely concluded "online" without the physical presence of the parties by simplifying procedures where seriously disputed questions are not required to be adjudicated."

Existing Laws for Validating ODR:

There exist provisions in the present laws which have enabled the accommodation of online processes,

especially sharing of virtual documents and virtual hearings. Sections 65-A and 65-B of the Indian Evidence Act, 1872, provide for the identification of electronic evidence, sections 4, 5, 10-A, and 11-15 of the IT Act, provide that digital signatures are recognised as legal for online contracts. A thorough study of these Indian laws provides for the legality and technical viability of the ODR mechanisms.

Conclusion:

We are sustaining a judicial system that reflects whopping 32 million pending cases with research indicating an average wait time of 17 years from start to finish. Court litigation is always time-consuming and expensive, and it might not always be the best choice for settling IP and technology conflicts. Furthermore, the global pandemic has posed threats to national courts and IP adjudicative bodies' routine operations. As a result, promoting and developing a technology-driven conflict settlement platform not only seems exciting for lawyers, but it may also result in a significant reduction in workload of courts while also improving the productivity of the Indian legal ecosystem.

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IMPLICATIONS OF INTELLECTUAL PROPERTY RIGHTS IN PHARMACEUTICAL INDUSTRY: AN OVERVIEW

Abstract

The condition of Intellectual Property Laws of the member countries of World Trade Organisation have improved since the introduction of Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS aimed to standardise intellectual property rights through World Trade Organisation member nations, ensuring that all innovations in different industries receive a minimum degree of protection. India has developed its own TRIPS-compliant intellectual property regime, which has been praised as a "model" rule for emerging countries by others, although others remain sceptical that it would offer the right conditions for medical advancement and improve healthcare access. The Indian Patents Act of 1970, which allowed for process patenting, ushered in a pharmaceutical reform in India resulting in a dramatic rise in generic drug manufacturing. The Patent Act of 2005, on the other hand, is widely regarded as a game changer because it allows for both process patents and product patents and would dictate the agenda for a pulling back from reverse engineering and advancement toward forward engineering. The increase in Patent activities represents the country's progress in research and technology. This paper conducts a study of existing research in order to offer insight into the importance of intellectual property rights in the development of health care technologies.

Introduction

A patent is a state-granted proprietary right to an innovation that is novel, requires an inventive step (or is non-obvious), and may be used in industry (or useful). It grants its creator the exclusive and exclusive right to bar anyone from producing, using, offering for sale, distributing, or introducing the intellectual property without authorisation. A patent is a valuable business weapon that allows a company to achieve ownership rights on a commercial technology/product or method, establish a firm market position, and/or obtain extra revenue by

licensing. The national or state patent office issues a patent. It is only valid for a certain amount of time, usually 20 years from the date of filling called the priority date of the patent submission, as well as the registration (or maintenance) payments are charged to keep the patent active. In India, health policy has been based on the concept of fairness. It has recently been expanded to include the topic of public healthcare, which is the providing of quality health care to all residents of a society. Despite its focus on wealth, connectivity, and efficiency, India has a high mortality rate, which necessitates novel solutions.

As previously mentioned, the former IP regime's defence of process rather than product technologies resulted in Indian companies focusing on process improvement and developing capabilities to manufacture bulk drugs at a low cost. There is no agreement on the effect of the current IP system on the Indian pharmaceutical industry's entrepreneurial orientation; whilst others claim that the influence has so far been beneficial, there are others contend that it has been negative or irrelevant effects. Others contend that the court seems to be out, citing intriguing firm feedback in terms of creativity. While the defence of product patents is in accordance with TRIPS Intellectual property laws and limits domestic firms' reverse engineering opportunities and could theoretically boost drug costs, certain protections remain to protect domestic customers and manufacturers. Both also have drawn the world's attention in form of compulsory licence requirements (Section 84) and patentability criteria (Clause 3[d]). Compulsory licences enable national governments to require manufacturers/companies to copy patent-protected products and processes. The permission will be granted only three years after the granting of a patent if there is a "reasonable conditions of the market with regard to the intellectual property has't really been completely satisfactory" or "the intellectual property is not available to the general public at a suitable price" or "intellectual property is not used in India". On the other hand, Clause 3(d) specifies that the invention of a variant of a developed drug or procedure that does not increase effectiveness substantially is not patentable. The provision is intended to avoid needless inventions. These regulations aim to strike a balance between the two principles of providing "access to drugs" and encouraging creativity.

What can be Patented under the Indian Patents Act, 1970?

A patent is acknowledgment for the type of intellectual property embodied in invention. Patents are issued for patentable inventions that meet the conditions of innovation and usefulness under the strict inspection and opposition procedures specified in the Indian Patents Act, 1970, however there is really no prima-facie implication as to the legitimacy of the patent issued. What may be patented is divided into the following categories:

1. "It is original and new (novelty requirement);
2. the invention contains proprietary viable subject matter;
3. it requires an innovative step or the manufacturing process should be non-obvious (inventive step);
4. it is worthy of commercial application or use (industrial usefulness requirement); and
5. it is revealed in the patent filing in a simple and comprehensive manner (disclosure requirement)."

What is not Patentable in India?
From Section 3 to Section 4 of the Indian Patents Act, 1970, a list of things that cannot be copyrighted in India is given. Any innovation that is:

1. unnecessary,
2. apparent,
3. contradictory to well-laid out natural processes
4. inconsistent with the laws or morality,
5. harmful to public health,
6. a mere discovering of a scientific phenomenon,
7. the development of an empirical fact,
8. a mere realisation of any new characteristic or new application for a specific compound or method, system or equipment,
9. a material obtained by a simple amalgam consisting only in the combination of the structural characteristics of the component thereof, or a mechanism for processing such substance,
10. a simple arrangement, rearrangement, or replication of existing instruments, a method of cultivation or horticulture, and
11. innovations pertaining to atomic energy are not subject to patentability in India."

What is Process Patent and Product Patent?

Before being modified in 2005 to conform with the WTO's TRIPs requirements, India's Patent Act of

1970 authorised only process patents. As a result, it is important to consider the distinction between the two. A process patent is awarded for a certain production process rather than for the innovation itself.

Any other person will manufacture the same product using a different Method, changing the different factors. Because of the probability of multiple production processes, the consequence is that there would exist more than one manufacturer with the same commodity. The disadvantage of the process patent system is that it provides little protection to the inventor. Competitors have a high proclivity to redesign the initial innovation by finding a modern method that requires less effort and expense. The process patent system has the advantage of reducing the factor of monopoly. A product patent is a proprietary right granted to the original manufacturer of a technology. This ensures that no other producer will produce the same product using the same or a similar method. The consequence is that the manufacturer would not face competition when the commodity is proprietary. Since there will be no other copyright holders, the inventor has a higher degree of rights under the product patent scheme. TRIPs are modelled after the commodity patent regime. A product patent grants the developer a 'True Monopoly' right.

Ever-greening of Patents

Ever-greening of inventions has been a controversial topic in the area of patent protection. Pharmaceutical firms are attempting to expand their dominance beyond the 20-year mark. Pharmaceutical firms make minor changes on current patented products as the patent term is about to expire. The pharmaceutical industry's typical ever-greening techniques are as follows:

"1. Unessential modification and developments of "next-generation drugs" that result in non-existent variation of a substance and then asking for patent protection for it as a new application.

2. Switching from prescribed to over-the-counter (OTC) medication

3. Exclusive agreements with the general market top drug company prior to the expiration of the drug's licence, thus dramatically increasing the brand's appeal and generating transitional revenues.

4. Defensive pricing tactics are used by innovator firms to lower commodity prices to compete with generic players.

5. Prior to the arrival of competing generic firms, corresponding innovator corporations formed subsidiary divisions in the generic domain."

Due to cheaper copies of proprietary medicines, ever-greening of patents has become more popular in recent years. A generic medicine is one that is manufactured and sold without the benefit of a patent. The composition of the generic drug can also be protected by a patent, but the active ingredient is not. The active components in a substitute must be identical to those in the initial composition. Generic drugs are typically available after the initial developer's patent rights have elapsed. When generic drugs become affordable, consumer rivalry also results in significant price reductions on both the initial branded product and generic versions. The duration it takes for a generic drug to reach the market differs by region.

What is Section 3(d) of Indian Patents (Amendment) Act, 2005?

Section 3 is the most important section on "patent qualifications," and it defines whether or not it is a "innovation" under the Indian Patents Act.

One such non-patentable material content is mentioned in Section 3 (d): the mere detection of a novel type of a specific compound which is already known does not contribute in an advancement in that material's known effectiveness, or the sole realisation of some new characteristic or new application for a specific compound which is already know, or the mere application of a known process, system, or equipment until that process produces a new product or incorporates at minimum one new reactant. For the applications of, this provision compounds like "salts esters, ethers, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, blends, and other variations" of a known material are all regarded the same product until they vary substantially in effectiveness properties. In effect, section 3(d) seeks to avoid a practise known as "ever-greening" by limiting the patentability of pharmaceutical derivatives to those that show substantially improved "efficacy."

Is Section 3(d) of Indian Patents (Amendment) Act, 2005 inconsistent with Article 27.1 of the TRIPS Agreement?

There have been arguments that Section 3(d) is incompatible with two

components of Article 27.1 of the Trips Agreement: (a) the anti-discrimination clause, and (b) the requirement to issue a patent where the three patentability requirements stated in that article (novelty, imaginative step/non-obviousness, commercial productive validity/utility) are met, without creating unnecessary statutory requirements. However, bear in mind that Article 1 states that member states may or may not enforce more stringent security than is provided by the TRIPs Agreement. This allows emerging and developing countries to change their legal systems in compliance with the TRIPs Agreement. TRIPs Agreement provides a range of possibilities for member states to decide their own policy pertaining to intellectual property availability and benefits to pharmaceuticals. For example, the words “new,” “inventive step,” and “industrial application” in Article 27.1 provided room for member states to be flexible in order to meet the minimum requirement. As a result, the countries will be aware of the basic requirements that must be met in order for them to have access to medication. WIPO defines these flexibilities as legal instruments that countries should employ however they consider appropriate in their national advancement strategies and within the context of compulsory treaty commitments. Flexibility implies that there may be different interpretations under which TRIPs agreement should be adhered to compared to national legislation in order to conform with both national interest and TRIPs agreement, for example, the essence of the innovation should be specified and patentability requirements should be governed within the scope of TRIPs Agreement laws if they want to claim inconsistency.

What is the Impact of Section 3(d) on Pharmaceutical Industry?

Section 3(d) was called into question just one year after it was enacted into the Indian Patent Act of 1970 through the 2005 amendment. The Madras Patent Office denied Novartis' patent registration for the beta crystalline structure of imatinib mesylate in 2006. The patent office made this determination because imatinib mesylate (a pre-1990s molecule) was an already recognised drug, and the beta crystalline structure was simply a variation of imatinib mesylate. Novartis also refused to have evidence to back up its assertion of improved effectiveness over the parent drug, and as a result, Novartis' submission failed to meet Section 3's patentability requirements (d) Novartis filed an

appeal to the IPAB (Intellectual Property Appellate Board) against the patent office's ruling, claiming that Section 3(d) is legally unconstitutional and in violation of TRIPS terms. The court agreed to simply deal with the statutory validity question and delegated the problem of TRIPS compliance to the WTO's dispute resolution body, claiming that it lacked authority over the matter. The court affirmed Section 3(d)'s procedural validity, and on TRIPS usability, the court stated that Section 3(d) was written to take advantage of the TRIPS framework's flexibility. The IPAB affirmed the Madras High Court 's judgment that the beta crystalline structure of imatinib mesylate was original and innovative, but that it failed to explain improved effectiveness over imatinib mesylate and therefore could not be awarded a patent. Novartis challenged the IPAB's ruling in the Indian Supreme Court. The Supreme Court affirmed the Madras High Court's verdict, agreeing with the IPAB's conclusion that Novartis unable to demonstrate improved therapeutic effectiveness over the parent drug, and therefore unqualified to meet the Section 3 test (d). The Indian Supreme Court went on to say that the improved efficacy-standard is in line with the TRIPS protocol's flexibility.

However, as some researchers consider, the Novartis decision has no bearing on the patent protection of incremental compounds and medicinal compounds. The Supreme Court has noted unequivocally that Section 3(d) may not preclude patent rights for all incremental discoveries of chemical and medicinal compounds, leaving the issue of patentable subject matter to be decided case by case. As a result, Indian courts would consequently consider the product's potential to significantly build upon an actual result while evaluating cases under Section 3(d). The decision in the Novartis case has been widely praised because it prioritises access to life-saving medications at a reasonable expense over the patentee's exclusive privilege. The Supreme Court explained that the decision could not be interpreted as a blanket moratorium on patent rights on all gradual chemical and medicinal substance innovations. The pharmaceutical industry, on the other hand, has been critical of the decision. However, the ruling is intended to shield legitimate innovators. The Supreme Court of India has correctly interpreted Indian law in accordance with international norms, i.e., preservation of an advanced new product rather than a marginal alteration to the product.

Compulsory Licensing under Section 84 of the Indian Patent Act, 1980

Amongst the many relevant facets of the Indian Patents Act, 1970, is compulsory licensing is another controversial matter for avoiding patents benefits according to certain provisions to discourage monopoly. Any ones involved may submit an appeal to the Controller of Patents at any time after the revocation of three years since the day of the licensing of a patent for grant of compulsory licence of the patent, pursuant to the compliance of the following circumstances, namely:

1. "the reasonable standards of the market with regards to the intellectual property have not been fulfilled;
2. the intellectual property is not available to the general public at a suitable price or
3. intellectual property is not used in India."

It is therefore necessary to remember that a petition for compulsory licences can be submitted by anybody, even though he already has a licence within the patent. If the Controller is convinced that the reasonable conditions for the intellectual property have still not been met or that the claimed invention is not accessible to the market at a reasonable price, he may compel the patent holder to issue a licence on such conditions as he deems fit. Natco Pharma was awarded a mandatory licence to import a generic version of the medication Nexavar in 2012. Bayer's initial formulation, Nexavar, is used to treat kidney and liver cancer. In comparison to the generic variant, which costs US$141.6,29 a month, the prescription costs $5,500 a month. Bayer challenged the licence in Indian court and was defeated. The reasons mentioned would be that the drug accessibility did not satisfy the fair needs of the population, that it was not adequately priced, and that it was not properly operated in India, since it was not made locally.

Conclusion

As India gets more familiarity with the new patent system, it would need to be aware of any dysfunctionalities that might have arisen as a part of the recent system. Although international companies have expressed concerns about the patent protection (Article 3[d]) and compulsory licences (Article 84. A critical examination of these seems to be in order. Complaints about time-consuming patenting

processes seem to be popular among various categories of businesses. To be sure, the nation is in a learning process, and the government should be willing to adapt policies in order to reconcile the twin goals of incentivising innovation and ensuring quality health care.

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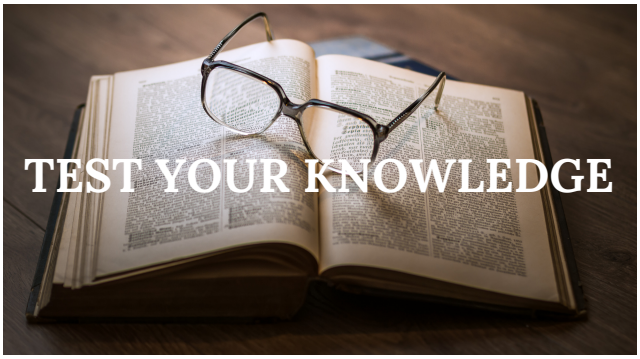


Q1. Trade mark

(a) is represented graphically
(b) is capable of distinguishing the goods or services of one person from those of others
(c) may include shapes of goods or combination of colours
(d) All of the above
Ans: (d)

Q2. Which is the most appropriate term with respect to Copyright? *

(a) Pledge
(b) Assign
(c) Sell
(d) Hypothecate
Ans : (b)

Q3. Does strict application of the principle of protection of copyright hampers economic and cultural development of the society?

(a) yes
(b) no
(c) can't say
Ans : (a)

Q4. Which of the following is the reason behind incorporating "exceptions" in the Copyright Law ?

(a) Maintain balance between the interests of the creators and of the community.
(b) Foster Research and academic activities
(c) Provide minimum safeguards of the rights of authors over their creations
(d) Reward Creativity
Ans : (a)

Q5. In which of the following situation/s de-minimis principle applies in Copyright Law? a. When idea is separable from expression b. When idea is not separable from expression c. When there are limited number of ways of expressing an idea

(a) a and c
(b) a, b and c
(c) a only
(d) b and c
Ans : (a) and (c)

Q6. Taglines and slogans are per-se not copyrightable but can be copyrighted on a case to case basis, if some brand value, Trademark or Goodwill is associated with them. This contradicts which of the following

(a) De-minimis principle
(b) Idea-expession Dichotomy
(c) Originality Requirement
(d) Merger Doctrine
Ans ; (a)

Q7. Which of the following is CORRECT about the Computer Programmes? *

(a) Computer programmes are not protected as meaningful protection can never be given to Computer programmes.
(b) Computer programmes are protected under the Copyright Act and are treated as literary works.
(c) Computer programmes are not protected under the Copyright Act as they are dealt with as separate IP.
(d) Computer programmes are protected under the Copyright Act and are treated as separate category of Work
Ans: (b)

Q8. Exclusive marketing Rights means

(a) The right to sell or distribute the article or substance covered in patent application in a country. where there is a product patent
(b) a digital version of the paper charts in the clinician's office.
(c) Right to sell without products without permission of drug controller
(d) The right to sell or distribute the article or substance covered in patent application in a country. where there is no product patent
Ans : (d)

Q9. Which among the Agreements Indian Patent has to align with after signing WTO in 1994 ?

(a) Madrid protocol
(b) TRIMS
(c) TRIPS
(d) None of the above
Ans : (c)

Q10. Are copyrights same for all classes of works

(a) Yes
(b) No
(c) Indian Copyright Act is silent on this aspect
Ans : (b)

Q11.Which of the following is CORRECT about Eastern book Company v. D.B.Modak (2008) 1 SCC 1 ?

(a) Shifted the focus from "Sweat of the brow" to "Minimal degree of Creativity"
(b) Paved the way for major amendments in the Copyright Act
(c) Stressed upon the need for US standards of "Modicum of Creativity" in order to be Copyrightable under the Indian Law
(d) Shifted the focus from "Sweat of the brow" to " Modicum of Creativity".
Ans : (a)

Q12. Under patent Act of 1970(before 2005 amendment) Patent protection was for ?

(a) 10 years
(b) 14 years
(c) 20 years
(d) 7 years
Ans : (c)

Q13. Non Working of patent for 3 years from the date of grant is a ground for ?

(a) seeking revocation of patent
(b) seeking compulsory license
(c) seeking patent rights
(d) seeking permission for government use
Ans : (b)

Q14. Parallel importation provision incorporated in Patent Act during which amendment ?

(a) 1911
(b) 1970
(c) 1999
(d) 2002
Ans : (d)

Q15. Which was the controversial provision of patent Act interpreted by Supreme Court in Novartis case ?

(a) Section 25
(b) Section 3(j)
(c) Section 3(d)
(d) Section 3(b)
Ans : (c)

Q16. Literary Merit is the essence of Copyright Law in India ?

(a) True
(b) False
Ans : (b)

Q17. Indian Government considered which committee report after independence for amending the Patent Act 1911 *

(a) Justice V.S.Malimath committee
(b) Justice Tek Chand Committee
(c) Justice Ayyangar committee
(d) Both (b) and (c)
Ans : (d)

Q18. Which of the following Philosophy justifies Intellectual property *

(a) Gandhian Philosophy
(b) Maxian Philosophy
(c) Lockean Philosophy
(d) Hindu Philosophy
Ans : (c)

Q19. Which among the following is not true based on Hegel's Philosophy of property ?

(a) Existence of freedom is an essential end to itself
(b) Private property is instrumental to the maintenance of a liberty-protecting social system
(c) Private property encourages the development of free personality
(d) Property should be held in common as a trust
Ans : (d)

Q20. Which among the following statement is not correct- Paris Convention is applicable for ?

(a) member countries of Paris convention
(b) nationals of other countries having receiver IPR Protection in their own country
(c) nationals of other countries having domicile in Paris union
(d) nationals of other countries having commercial establishment in Paris union
Ans : (b)

Q21. Book of Bounty issued by King James I was for ?

(a) Invalidating all monopolies granted
(b) Validating all the monopolies granted
(c) Revoking some of the patents granted
(d) None of the above
Ans : (d)

Q22. Which among the following laid the foundation for the Modern Patent Act ?

(a) Statue of Bounty
(b) Statute of Monopoly
(c) Statute of Venice
(d) Letter patents, charters etc
Ans : (b)

Q23. Which among the following IPR is not protected under Paris convention ?

(a) Patent
(b) Copyright
(c) Geographical indication
(d) Industrial Designs
Ans : (b)

Q24. Which among the following is not a principle given Paris convention ?

(a) National Treatment
(b) Priority Rights
(c) Independence of Rights
(d) Most favored Nation principle
Ans : (d)

Q25. Which among the following not excluded from patentable subject matter? *

(a) Biological process
(b) Plants
(c) Animals
(d) Microorganism
Ans : (d)

Q26.TRIPS Agreement mandates for

(a) Protection and enforcement of IPR
(b) Discrimination of technologies
(c) Discrimination of place of invention and nature of invention
(d) All the above
Ans : (a)

Q27. Compulsory license is granted
(a) only for pharmaceutical substances patents
(b) only for product patents
(c) for any product or process patents
(d) None of the above
Ans : (c)

Q28. According to Paris convention compulsory license can be granted

(a) at any time after patent grant
(b) after three years from grant of patent
(c) after three years from filing of patent
(d) at any time after sale of patented product
Ans : (b)

Q29. Member countries of WTO can delay implementation of product patent for

(a) Ten years
(b) Four years
(c) Five years
(d) None of the above
Ans : (c)

Q30. In Novartis v Union of India the supreme court interpreted the term efficacy as

(a) As hygroscopic properties
(b) Therapeutic property
(c) Physical property
(d) None of the above
Ans : (b)

Q31.In Dimminaco v Controller of Patents the court

(a) Invalidated the claim for virus
(b) Validated the claims for virus in the vaccine
(c) Invalidated the process claim for manufacture of vaccine
(d) Validated the process claim for manufacture of vaccine
Ans : (d)

Q32. Which decision led to patenting life forms in United States ?

(a) Diamond v Diehr
(b) Diamond v Chakraborty
(c) Funk brothers v Chakraborty
(d) American fruit growers v Brogdex
Ans : (b)

Q33. Which among the following statements is true ?

(a) Compulsory license is assignable
(b) Compulsory license is transferable
(c) Compulsory license will be granted exclusively
(d) CL is non-assignable, except with that part of the enterprise or goodwill which enjoys such use
Ans : (d)

Q34. In case of exhaustion of IPR

(a) Countries cannot establish any regime of exhaustion
(b) Countries can establish its regime of exhaustion with challenge
(c) Countries can establish its regime of exhaustion without challenge
(d) None of the above
Ans : (c)

Q35. In case of any unpublished work or any work published or communicated to the public and the work is withheld from the public in India, Compulsory license cannot be granted in cases where ?

(a) The owner of the copyright in such work cannot be found
(b) The author is unknown
(c) The author is alive and can be traced or found by exercise of reasonable due diligence
(d) The author is dead
Ans : (c)

Q36.Reproduction has different meaning for different kinds of works

(a) False
(b) True
Ans : (b)

Q37. Communication through satellite or cable or any other means of simultaneous communication to more than one household or place of residence including residential rooms of any hotel or hostel.....

(a) Shall not be deemed as communication to the public
(b) Is considered as communication to the Private Audience
(c) Is not considered as communication at all
(d) Shall be deemed as communication to the public
Ans : (d)

Q38.Statutory Licence for Cover Version can be granted with respect to sound recording in respect which of the following work/s? a. Musical Work b. Literary Work c. Artistic Work d. Dramatic Work *

(a) a and b
(b) a, b and d
(c) a, b and c
(d) All of the Above
Ans : (b)

Q39. A trademark is represented by several key characteristics. Which of the following is one of them?

(a) A trademark identifies a product's origin
(b) Slogans are not covered under trademark law
(c) Trademarks are never an indicator of quality
(d) Trademarks are "shorthand" for retailers to use in determining pricing strategy
Ans: (a)

Q40. The assignee of a copyright can claim rights and immunities based on the contract which are inconsistent with the provisions of section 57 of the Copyright Act.

(a) True
(b) False
Ans: (b)

Q41. Moral Rights in a Copyrighted Work are conferred upon which of the following ?

(a) Assignee
(b) Licensee
(c) Copyright Owner
(d) Author
Ans: (d)

Q42. A new way to process milk so that there is no fat in any cheese made from it is covered under:

(a) Copy rights
(b) Trade mark
(c) Patent
(d) Industrial designs
(e) Geographical indications
Ans: (c)

Q43. Reading or recitation in public of reasonable extracts from a published literacy or dramatic work will not amount to infringement.

(a) True
(b) False
Ans : (a)

Q44. Moral Rights in a Copyrighted Work are conferred upon which of the following ?

(a) Assignee
(b) Licensee
(c) Copyright Owner
(d) Author
Ans : (d)

Q45. If the period of assignment is not stated, it shall be

(a) deemed to be five years from the next calendar year
(b) determined by the Registrar of Copyrights
(c) determined by the Appellate Board
(d) deemed to be five years from the date of assignment
Ans : (d)

Q46. A company wishes to ensure that no one else can use their logo

(a) Copy rights
(b) Trade mark
(c) Patent
(d) Geographical indications
Ans: (b)

Q47. A singer wishes to assign the rights to reproduce a video she has made of her concert.

(a) Copy right
(b) Trade mark
(c) Patent
(d) Industrial designs
Ans: (a)

Q48.A company has decided to invest in outer shape design of bottle in which they would fill the perfume produced by them, and which is distinctive, and they wish to ensure that they have sole use.

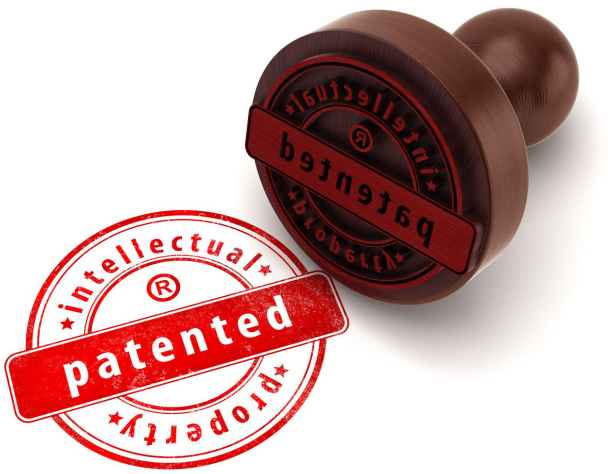
(a) Copy rights
(b) Trade mark
(c) Industrial designs
(d) Geographical indications
Ans: (b)

Q49. Reading or recitation in public of reasonable extracts from a published literacy or dramatic work will not amount to infringement.

(a) True
(b) False
Ans : (a)

Q50. Which of the following is not an intellectual property law?

(a) Copyright Act, 1957
(b) Trademark Act, 1999
(c) Patent Act, 1970
(d) Design Act, 2000
(e) Customs Act, 1962
Ans: (e)



2nd April: UP's Atiya Sabri, wins the alimony battle.

Atiya Sabri who had fought against the practice of triple talaq in the SC, won a major battle as a family court in Saharanpur has directed her seperated husband to give her maintenance of Rs 21,000, every month, so that she can raise her two small daughters. The decision came finally after five years. Besides the alimony, Atiya will also get an arrear amount of Rs 13.4 lakhs as the case had been originally filed more than five years ago. Atiya had also petitioned the SC which passed an order against the triple talaq in August 2017.

5th April: Centre moves to SC for urgent hearing in the matter of ISRO 1994.

The Centre moved TO the SC seeking urgent hearing on the report filed by a high-level committee regarding the role of erring police officials in the '1994 espionage case' relating to ISRO scientist Nambi Narayanan He has been acquitted and so was also awarded Rs 50 lakhs compensation by the top court. This matter for urgent hearing was brought by Solicitor General Tushar Mehta before the bench. To which, the bench said the case would be heard next week. Solicitor General said that the matter should be considered urgently because it was a 'national issue'. The bench said it understands that it is an important matter but "not a very urgent matter" and therefore they said, "We will take it up next week,"

7th April : SC adjourns Lavalin case for two weeks

The Supreme Court adjourned the hearing on the Special Leave Petitions filed by the CBI challenging the acquittal of Chief Minister Pinarayi Vijayan and others in the SNC Lavalin case, for two weeks. The Bench, comprising Justice U U Lalit and Justice Indira Banerjee, adjourned the hearing

based on a plea by former state power department joint secretary, seeking postponement of the hearing in order to file additional documents. Counsel for V M Sudheeran, who too challenged the acquittal, requested not to grant any further adjournment. The Supreme Court expressed that the respondents will not seek adjournment on the next hearing date at any situation.

9th April: SC declines to entertain plea for directions to curb black magic and forced religious conversions

The SC said that persons above age of 18 years are legally free to choose their religion and so it refused to entertain a plea seeking directions to the Centre and states to control black magic and religious conversion. A bench comprised of Justices RF Nariman, B R Gavai and Hrishikesh Roy told senior advocate Gopal Sankaranarayana, who was appearing for petitioner, advocate Ashwini Upadhyay, said; "What kind of writ petition is this under Article 32. We will impose a heavy cost on you. You argue on your own risk". The bench said there is no reason why a person above 18 years can't be allowed to choose his religion. The bench further told that, "There is a reason why the word 'propagate' is there in the Constitution".

SC tells Centre to Deposit compensation for Indian fishermen who was killed by Italian marines.

The Supreme Court tells the Centre to deposit in its account the compensation given by Italy for the kin of two Indian fishermen killed by Italian Marines off the Kerala coast in February 2012.A bench comprising of Chief Justice S A Bobde and Justices A S Bopanna and V Ramasubramanian said the top court will disburse the compensation to the family of the fishermen killed. It said that after one week of deposit of compensation amount in its account, the top court will hear Centre's plea for closure of case against the Italian Marines. On February 2012, India had accused two Italian marines, Salvatore Girone and Massimiliano Latorre, on board the MV Enrica Lexie -- an Italian flagged oil tanker -- of killing two Indian fishermen who were on a fishing vessel in India's Exclusive Economic Zone (EEZ).

12th April: SC benches to sit one hour late from scheduled time as 44 staff members of apex court staff found COVID-19 positive.

Supreme Court judges would hold court from their residences and the benches would sit one hour late from their schedule time in the morning as around 44 staffers have tested positive for corona virus, sources said. On some media reports

which suggested that around 50 per cent Supreme Court staffers have tested positive for COVID-19, an apex court official said only 44 employees got infected in the last one week. There are around 3,000 staffers working in the apex court. While some judges had been coming to the apex court premises to hold court, few others have been presiding over proceedings from their residences till now.

'Absolutely frivolous': Supreme Court on Rizvi's plea to remove Quran verses, hands Rs 50,000 fine

The Supreme Court termed a petition filed by former UP Shia Waqf Board chairman Waseem Rizvi as "absolutely frivolous". The petition sought removal of 26 verses from the holy Quran and dismissed it with a cost of Rs 50,000. A bench of Justices R F Nariman B R Gavai and Hrishikesh Roy rejected the petition in which Rizvi alleged that these 26 verses of Quran promoted terrorism. In his plea, Rizvi has stated that Islam is based on the concepts of equity, equality, forgiveness and tolerance but due to extreme interpretations of the said verses of the holy book, the religion has been drifting away from the basic tenets.

13th April: Gujarat riots: SC adjourns hearing on Zakia Jafri's plea against SIT clean chit to Modi

The Supreme Court adjourned by two weeks the hearing on a plea of Zakia Jafri, the wife of slain MP Ehsan Jafri, challenging the Special Investigation Team (SIT) clean chit to then Gujarat chief minister Narendra Modi in the 2002 riots. A bench headed by Justice A M Khanwilkar said the matter would be listed after two weeks as the petitioner has circulated a letter seeking adjournment in the case. The apex court had on March 16 posted the matter for hearing on this day and said that it would not entertain any more requests for adjournment.

14th April: Amazon moves SC against Delhi HC stay order restraining Future Retail deal with Reliance

Future Retail said that Amazon has approached Supreme Court against a Delhi High Court order which stayed a single judge's order restraining Future Retail Ltd from going ahead with its Rs 24,713 crore deal with Reliance Retail to sell its business. "The company's advocates are in receipt of communication dated April 13, 2021, from advocates of Amazon.com NV Investment Holdings LLC informing that Amazon has filed a Special Leave Petition before the Supreme Court of India against the captioned order dated March 22, 2021 passed by the Division Bench of the High Court of Delhi," Future Retail informed the stock exchanges. Future Retail said

it will "defend the matter/proceedings through our legal counsels".

15th April: Giving access to professional education is government's duty: SC

The government has an affirmative obligation to facilitate access to professional education, the Supreme Court said. "While the right to pursue higher (professional) education has not been spelt out as a fundamental right in the Constitution... access to professional education is not a governmental largesse. Instead, the State has an affirmative obligation to facilitate access to education, at all levels," a bench headed by Justice D Y Chandrachud said. The SC was hearing petitions by two students for directions to facilitate them to be admitted at Delhi's Lady Hardinge Medical College and the Maulana Azad Medical College, respectively, as per the Centre's policy on allocation of Ladakh Central Pool Seats in MBBS/BDS courses for 2020-21. The court directed that the petitioners be granted admission to the respective colleges and admission formalities be completed within a week.

17th April: Kumbh Mela: Plea in Supreme Court seeks direction to clear mass gathering from Haridwar

A plea has been filed in the Supreme Court seeking directions to the Centre and others to clear the "mass gathering" from Haridwar amid a surge in COVID-19 cases across the country and prescribe a safety protocol with respect to people returning from Kumbh Mela. The plea, which referred to the recent spike in COVID-19 cases, has also sought directions to the Centre and the Uttarakhand government to immediately withdraw the advertisements inviting people to Haridwar for Kumbh Mela. It said that the Election Commission should be asked to issue direction to the authorities in the states where elections are being held to strictly enforce COVID-19 guidelines during the poll process and take appropriate action against the violators.

19th April: SC rejects plea seeking 100 per cent matching of VVPAT slips with EVMs vote count

The Supreme Court dismissed a plea seeking 100 per cent matching of the voter verifiable paper audit trail (VVPAT) slips with the electronic voting machines (EVMs) vote count in the elections, saying it will not interfere in the middle of poll process. We are not going to interfere in the middle of election process, □ a bench comprising Chief Justice S A Bobde and Justices A S Bopanna and V Ramasubramanian said. The Assembly election process is on in five states including West Bengal and the counting of votes for all the seats be held on May 2.

20th April: COVID-19: In relief to Yogi government, SC stays Allahabad HC order imposing lockdown in five UP cities

The Supreme Court stayed the Allahabad High Court order directing the Uttar Pradesh Government to impose strict restrictions till April 26 in five cities amid the surge in COVID-19 cases. The bench passed the order after Solicitor General Tushar Mehta, appearing for Uttar Pradesh, said the state has taken several steps to contain the spread of coronavirus but to "lockdown five cities by a judicial order may not be the right approach". Mehta, while arguing that the high court order would create "immense administrative difficulties", said the state government has issued several directions and taken adequate precaution on the issue. "In these circumstances, there shall be an interim stay on the order of the high court," the top court said.

21st April: Inquiry commission gives 'clean chit' to UP Police in Vikas Dubey encounter case

The three-member inquiry commission probing the encounter killings of gangster Vikas Dubey and five of his alleged associates has given a clean chit to Uttar Pradesh Police because of lack of evidence. The commission is headed by former Supreme Court judge B S Chauhan. The other two members are former Allahabad High Court judge Sashi Kant Agrawal and former UP Director General of Police K L Gupta. The panel submitted its reported to the state government on Monday, eight months after it was set up.

22nd April: SC asks Centre to come with 'national plan' on oxygen supply, COVID vaccination

As the country grapples with the current wave of COVID-19 pandemic, the Supreme Court took suo motu cognizance of the prevailing grim situation and said it wanted a "national plan" on issues, including supply of oxygen and essential drugs for the treatment of patients infected with the virus. The bench said it would also consider the issue pertaining to method and manner of COVID-19 vaccination in the country. The bench, also comprising Justices L N Rao and S R Bhat, said it would examine the aspect relating to power of the high court's to declare lockdown amid the pandemic. The apex court appointed senior advocate Harish Salve as an amicus curiae to assist it in the suo motu proceedings.

23rd April: 'They are exercising jurisdiction in best interest, but it's creating confusion': SC on HCs handling COVID-related hearings

The Supreme Court asked the Centre to present before it a national plan elaborating the measures it has adopted and proposes to take to face the national emergency while taking a suo motu cognisance of the crisis

caused by the second Covid-19 wave. They said that it is an national emergency, we are taking suo moto cognizance of the matter. At least six high courts were hearing issues related to the preparedness of the states and the Centre to deal with the crisis. They are exercising jurisdiction in the best interest, but it is creating confusion and diversion of resources because of their priorities.

25th April: 'Grave violation of human rights': 11 Kerala MPs write to CJI, seeks urgent hearing in Siddique Kappan case

11 UDF MP's led by K Sudhakaran have shot off a joint letter to Chief Justice, N V Ramana seeking the Supreme Court's intervention in the case of journalist Siddique Kappan who has been admitted at Mathura Medical College Hospital in Uttar Pradesh after he became Covid positive. They urged before the Chief Justice that the Malayali journalist should be shifted to All India Institute of Medical Sciences for expert medical attention. "He is presently suffering from COVID-19 and has been admitted in the Mathura Medical College Hospital in Mathura. His condition is serious and he needs better treatment.

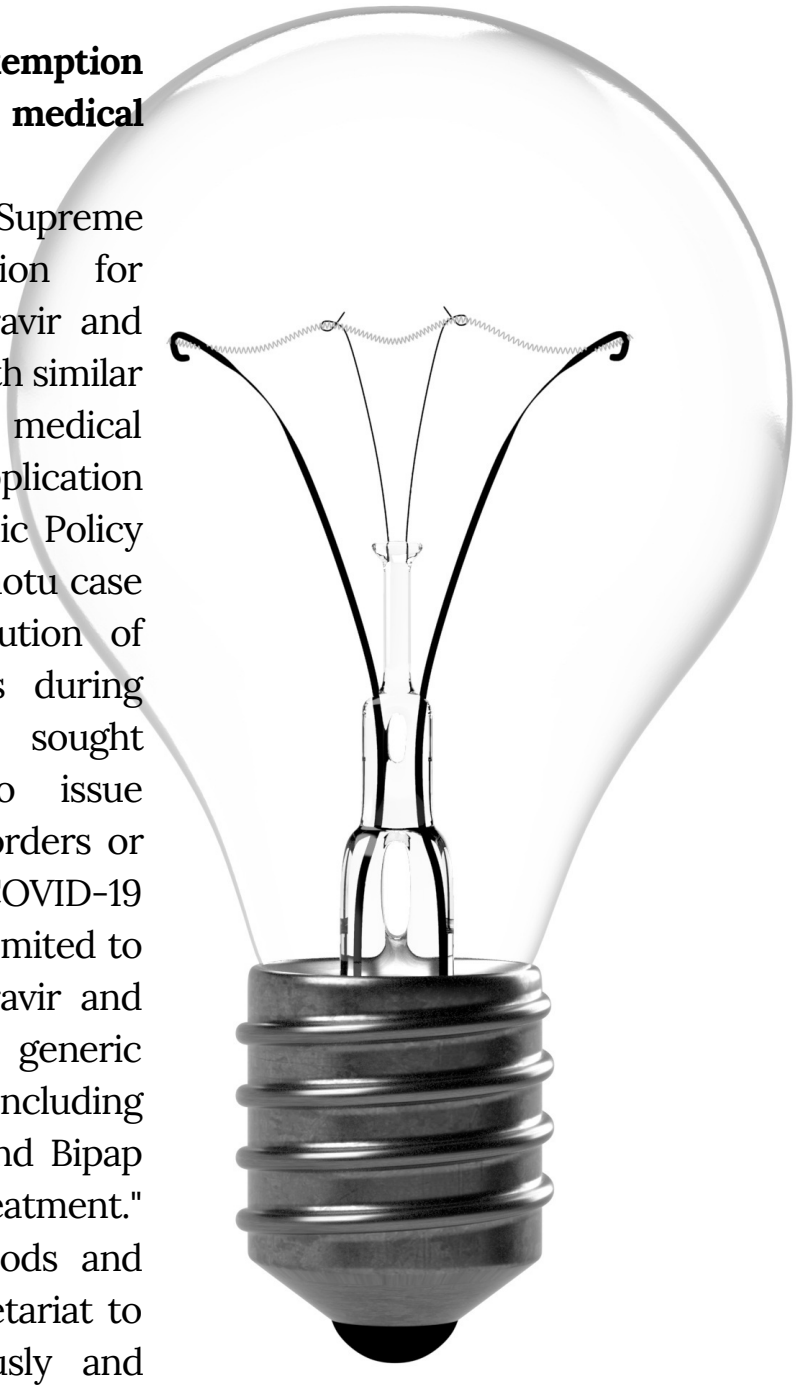
27th April: 'Oxygen in any country cannot be unlimited, measures being taken': Centre to SC

The Centre told the Supreme Court that medical oxygen in any country cannot be unlimited and with the active and constant supervision of the Prime Minister it is augmenting the oxygen supply on a war footing to provide relief to COVID-19 patients. The government said oxygen supplies available at any given time in the country are to be distributed to all the states, especially those which are critically burdened with high number of active COVID cases, in a balanced manner. The Ministry of Home Affairs said the sheer magnitude of this unprecedented surge in COVID-19 cases itself bring with it certain inbuilt limitations in terms of available resources which need to be professionally augmented and utilized.

28th April: COVID-19: Can't remain mute spectator, we'll help HCs, says top court

The Supreme Court said that it cannot be a mute spectator to a national crisis as it asked the government to clarify the rationale on which Covid-19 vaccines are being priced in the country. It also sought details on the availability of medical oxygen and medicines for treatment of Covid patients. At the same time, the apex court reiterated that it never proposed to interdict the high courts. "There are issues which transcend regional boundaries and if HCs have any difficulty in dealing with an issue due to territorial limitations, the SC will help."

The bench added that it does not aim to enter the domain of the executive either, and rather intends to provide suggestions and valid solutions.



29th April: Plea in SC for GST exemption on COVID-19 related drugs, medical equipment

A plea has been filed in the Supreme Court seeking GST exemption for Remdesivir, Tocilizumab, Favipiravir and other COVID-19 related drugs with similar generic constitution as well as medical equipment. The intervention application has been filed by an NGO, 'Public Policy Advocates', in the pending suo motu case by the apex court on distribution of essential supplies and services during pandemic. The application sought direction to the Centre to issue appropriate ad-hoc guidelines, orders or notifications "exempting COVID-19 related drugs including but not limited to Remdesivir, Tocilizumab, Favipiravir and other drugs with similar generic constitution, medical equipment including but not limited to Ventilators and Bipap Machines, and other medical treatment." It also sought direction to Goods and Services Tax (GST) council secretariat to convene a meeting expeditiously and direct exemption of GST with immediate effect on COVID related drugs and medical equipment which also include ventilators, medical grade oxygen and oxygen concentrators.

REVIEWS OF COURSE ON MERGER & ACQUISITION

"It introduced me to working of mergers and acquisitions work and also the various functions of corporate law in general. I feel like I can build up from the knowledge gained in this course and learn more complex aspects of corporate law with little difficulty thanks to the solid base. I enjoyed the classes a lot. They were very interactive and I did not feel awkward asking doubts or interacting with the Avantika ma'am. Ma'am's friendly attitude put us all at ease and we were able to go over tough areas numerous times until we were completely clear."

- Pratap Alexander Muthalaly
Government Law College Thiruvananthapuram

" Yes the course was beneficial as it gave an overview of not only the laws and procedure related to mergers and acquisition but also that related to securities law. The discussions helped me understand the upcoming concepts in the sector like Space etc better. The style of teaching was perfect as it was not monotonous. The teaching zeal not only intrigued me about Mergers and Acquisition laws but also had me research upon securities and other Corporate laws. The discussions and connecting of written law with practical ongoing issues like LV bank case helped me understand and retain the concept for long time."

- Varuni Agarwal
National law university Odisha

" It was indeed benificial. Learnt a lot about mergers and takeovers and it also enhanced my knowledge on other aspects of company law. It was a delight to be taught by Avantika Ma'am. Her ability to simplify conplex concepts is commendable. She is also very friendly and approachable which makes the learning process 10x better and fun."

- Pratha Pant
Amity University, Noida

" It helped me gain a lot of theoretical and political knowledge about mergers and acquisitions. I want to pursue my career in corporate law and thus this course will help me a lot for my future endeavours too."

- Ayushman Patnaik
Department of Law, Maharaja Agrasen Institute of Management Studies

Upcoming Opportunities

UPCOMING EVENTS

- Call for Blogs| Freedom of Press | Submit by 25th May|.
- Two-Day Workshop|Introduction to Capital Market|.30-31st May|.

COMING SOON

- Webinar on Corporate Law
- Certificate Course on Banking Law