




MAR GREGORIOS COLLEGE OF LAW

IPR PRESS

THE CENTRE FOR INTELLECTUAL PROPERTY RIGHTS | STUDENT E-NEWSLETTER



INTELLECTUAL PROPERTY

According to the World Intellectual Property Organisation (WIPO), intellectual property(IP) comprises products of the human mind, the fruits of human creativity and innovation. It includes inventions, literary and artistic works, designs, brands, symbols, names and images used in commerce. Just as there are laws that protect tangible property, IP is protected by different laws and mechanisms, namely, patents, copyright, trademarks, geographical indications, industrial designs and trade secrets. In the 21st century, when innovation and creativity is at its peak, the need and protection of IP rights is immeasurable. It is no wonder that this is one of the most sought after career options in law. The Center for Intellectual Property Rights, Mar Gregorios College of Law, works with an aim of enhancing an interest in the field of IPR along with providing an insight into the opportunities that awaits them.

SNEAK

PEEK

INTELLECTUAL PROPERTY

CERTIFICATE COURSE IN COLLABORATION WITH CUSAT

An online certificate course titled 'Introduction to IPR' will be conducted in the month of May, 2023 in collaboration with the School of Law, Cochin University of Science And Technology(CUSAT)

WHAT'S INSIDE?



CAN PATENTS ENJOY HAPPILY EVER AFTER

A brief look into evergreening and how the Judiciary's decision on it will affect patents and Indian Pharmaceuticals



UNSPIRITED ECSTASY

The story of Rolls-Royce, BMW, Volkswagen and one of the biggest blunders in due diligence



CAREERS

An insight into the career opportunities that one of the leading IPR law firms has to offer

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EDITORIAL

CELEBRATING WOMEN IN IP

The World Intellectual Property Organisation, WIPO, commemorates April 26th as World IP Day to promote the knowledge on Intellectual property and the significant role it plays in creativity and innovation. The importance of IP rights can be understood by the fact that it is recognised under Article 27 of the Universal Declaration of Human Rights. To celebrate the achievement of women in IP and to bring out the challenges faced by them, the theme for this year is “Women and IP- Accelerating Innovation and Technology.”

The fact that women are contributing to IP Law, which is one of the most challenging and prestigious fields of law, in itself is a matter of great pride. This is particularly important due to the long history of discrimination against women in the employment sector, especially in the legal arena.

According to data released in March 2023, it is estimated that women invented just 16.2 percent of the technologies for which patent applications were filed under the Patent Cooperation Treaty in 2022 up from 14.4 percent in 2018. Based on the 2019 data released by the World Intellectual Property Office, India comes in strong at the 7th position among 20 countries, with the largest share of international patent applications involving female inventors. Further, in the WIPO report, 28.3 percent of international patent filings in India had females listed among the inventors. Even when the percentage of women patent holders is rising, the gender gap still persists. At the current rate, gender parity will only be achieved by the year 2064.



With the aim of achieving this gender parity, the government of India, through its Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industry, has circulated Draft Rules, 2018 which amends the Patents Rules, 2003. The amendment adds new categories of applicants who may avail expedited examination. One of these new categories is that of individual female patent applicants or groups, where at least one of the applicants is a female. Further, the Government of India through Patent Facilitating Center introduced 'Women Scientists Schemes on IPR' to encourage Women scientists to gear up in creating, protecting and managing IP in India, enabling them to seek specialized employment or be self-employed.

Despite an increase in women joining STEM (science, technology engineering and math) disciplines in recent years, there is still a notable disparity between the number of women entering these fields and that of men. This disparity primarily arises because of unequal distribution of caregiving responsibilities, gender stereotyping, and lack of formal training and mentoring opportunities.

Gender is not, and should not be a deterrent to achieving professional success. As much as there has been a lot of change, the question still remains if this is enough? Effort has to be made not just to celebrate the success of women in IP, but also to ensure the proper execution of policies, and to make new policies as necessary, along with extending the inspiration to more people, irrespective of gender, to contribute more to the field of intellectual property. The twin objectives of WIPO to identify women inventors and creators and to understand their challenges might hopefully bring a positive shift.



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CAN PATENTS AND TRADE SECRETS CO-EXIST?



An invention is a product or a technique that, in general, gives a new way of doing something or provides a new technical solution to a problem. A patent is an exclusive right awarded for an invention. The patent specification must be made known to the patent office in a patent application in order to get a patent which may be sold or licenced. In general, to qualify as a trade secret, the information must be:

- commercially valuable,
- be known only to a limited group of persons, and
- be subject to reasonable steps taken by the rightful holder of the information to keep it secret, including the use of confidentiality agreements with business partners and employees.

The unauthorized acquisition, use or disclosure of such secret information in a manner contrary to honest commercial practices by others is regarded as an unfair practice and a violation of the trade secret protection.

There is no statute or legislation that governs the protection of trade secrets in India. However, rights in respect of trade secrets are enforced through contract law (Indian Contract Act, 1872) principles of equity or by way of a common law action for breach of confidence.

Compared to Patents, Trade secrets offer longer protection. Patents provide a maximum 20-year exclusive monopoly to make, use, and sell an invention, after which the invention falls into the public domain. A trade secret does not provide an exclusive monopoly to make, use, and sell the secret innovation—it provides rights enforceable against misappropriation. However, a trade secret can potentially remain confidential indefinitely. Consider Coca-Cola, Had the company opted for a patent on the soft-drink composition, the patent would have since expired and the information contained within would be free for anyone to use. The Coca-Cola recipe is still a valuable trade secret that is protected on a global scale.

A significant ruling on the relationship between trade secrets and patents was made by the Delhi High Court in the case of Prof. Dr. Claudio De Simone v. Actial Farmaceutica SRL. (2020). A Single Judge Bench held that the same innovation cannot enjoy both trade secret and patent protection. While on first blush this finding seems logical, the catch here is that the Plaintiffs argued that the aspects of the innovation that they sought to protect as a trade secret were separate from the aspects that formed subject matter of their patent. The Court disproved this argument, ruling that after a patent application has been filed and has expired, the "invention" is in the public domain and cannot be protected by a trade secret

ARTIFICIAL INTELLIGENCE AND THE UNDERLYING IPR INFRINGEMENTS

Neha S, 8th Sem BBA



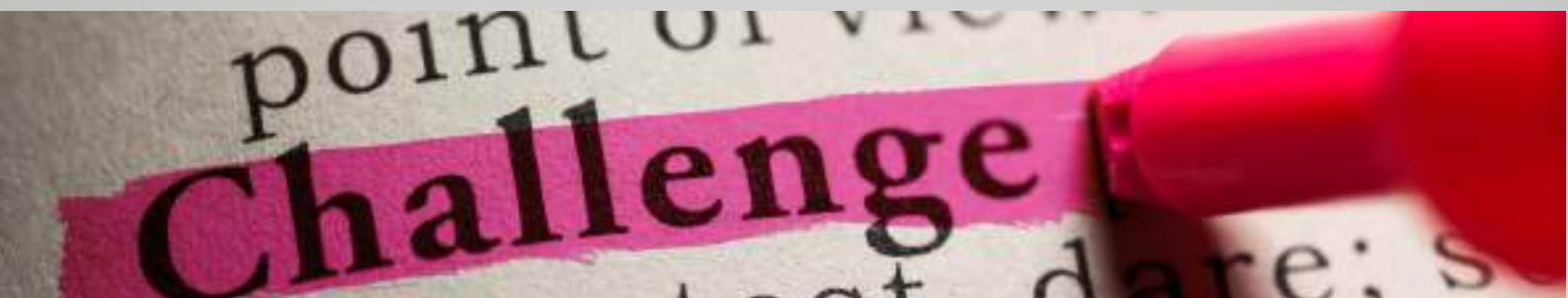
A substantial advancement has been made in artificial intelligence (AI) in recent years. In light of these recent advancements, at least those that are known to the public, AI can now start producing creative works. AI can provide knowledgeable responses and/or produced publishable content on a particular issue or task that can be immediately beneficial rather than "googling" a question and receiving search results that have to be separately assessed and digested. It's not yet apparent how laws and rules creating and protecting intellectual property rights should apply to works created by artificial intelligence. However, it is undeniable that under present intellectual Unless it is sufficiently transformative, the Output may not even be considered fair use when utilised in a commercial or public context. Certain outputs, such the outcomes of a search for notable or important quotes from a particular book chapter, might not be regarded as fair usage. Even if we take into account the exception of educational usage under Section 52(1)(i) of the Act, OpenAI might still be held accountable because there is a distinction between creating and providing course materials to a small group of students who do not represent the target audience for the relevant literary works and thousands or even potentially millions of people who have access to significant passages from those works.

The User prompts and outputs may be posted to social media and live streaming under the terms of OpenAI's Sharing & Publishing Policy, although there are certain limitations. The user is not permitted to assign the rights granted to it under the Terms of usage, which is the most significant restriction. This calls into doubt the Terms of usage's legality and its ability to be implemented in the absence of any legal provisions giving AI specific legal rights. Both that AI can be regarded as an author and maintain the right to paternity and that it is the proprietor of the output produced by ChatGPT are assumptions made by OpenAI.

To address the issues that emerging technologies like ChatGPT can bring up, the law must advance with technology. The rise and popularity of ChatGPT bring up important IP issues that require immediate attention.

IPR CHALLENGES IN INDIA

Gowri R Nair, 3rd Sem BA



Intellectual property rights (" IPR ") are the legal rights provided to an inventor or creator of something to protect their inventions which includes patents, copyrights, trademarks, etc.. The main objective of IPR is to protect innovative skills and encourage individuals for new creation of ideas. Until the formation of the WTO, India could independently determine its IPR protection laws. However, in 1995 India acceded to the TRIPS agreement. Today's India's IPR law are required to meet global standards while being mindful of domestic challenges. The challenges faced in the last two decades include:



Patent Evergreening Prevention

Patent evergreening by multinational companies is a constant challenge. Patent evergreening refers to minor/insignificant changes to a patent product based on which the product seeks subsequent patent protection. Section 3(d) of the Indian Patent Act, 1970 prohibits patent 'evergreening' since this prevents access to effective healthcare. For example, seeking patent protection for a beta-crystalline version of the medicine (when the medicine is also patented in its salt form) would amount to patent evergreening as the new form does not add any therapeutic benefit (Novartis A G v. Union of India, 2013).

Plagiarism

Plagiarism is a major issue which is given the least attention these days. Plagiarism is defined as "the act of taking another person's intellectual property (IP), such as ideas, inventions, original works of authorship, words, slogans, designs, proprietary information, and so on, and misrepresenting them as your own without proper acknowledgment and/or permission of the original author or inventor." Plagiarism is a major concern, particularly in an academic environment, where it could affect both the credibility of institutions and their ability to ensure the quality of their graduates. However, plagiarism has to be balanced against issues of 'fair use' of copyrighted material for educational purposes. In 2016, the DU Photocopy case (University of Oxford and Others v. Ramashwari Photocopy Services) held that course packs (compilations of extracts from various books) supplied to students would fall within the exception of fair use. However, in 2022 there are reports that publishing houses such as Sage are forced to shut shop in India due to fall in sales of academic books as the use of course packs to distribute educational material.



Compulsory licensing

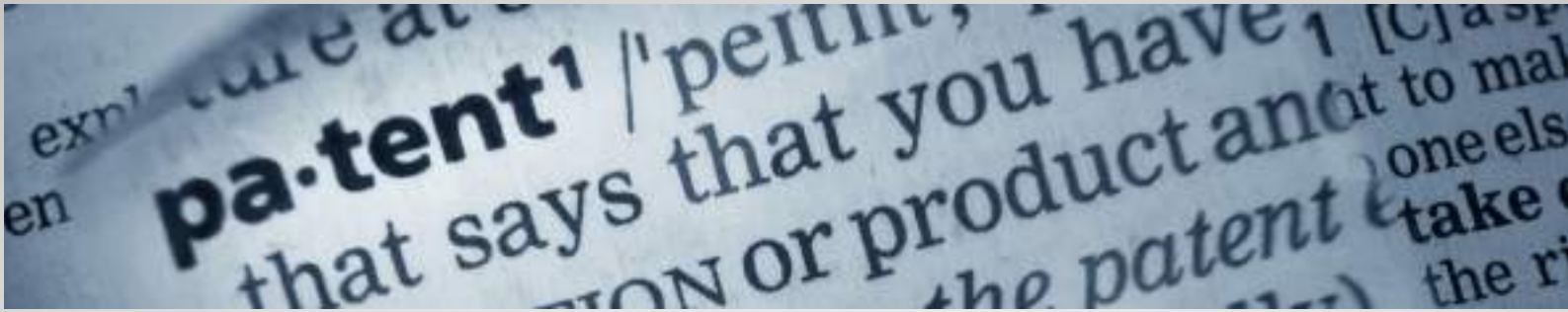
One of the most important intellectual property rights issues that the government needs to address is the use of compulsory licensing. It's a relaxation available to the developing countries under the TRIPS agreement. Under section 84 of the Indian Patent Act 1970, a company can acquire a compulsory license for a patented product if patented product does not satisfy the reasonable requirements of the public, or if the patented product is not available at a reasonable price. In India, the first compulsory license was granted for the drug Nexaver used to treat advanced liver and kidney cancer. Bayer was selling the drug in India at an exorbitant price but NATCO successfully acquired a compulsory license over the drug and sold it for a much cheaper price. Even though multinationals are asking the government to cancel this provision, the government is not granting the demands to protect the interest of the masses. Compulsory licensing is one of the most critical intellectual property rights concerns that the government must handle.

The above-mentioned are some of the challenges faced in India at present era. The protection of intellectual property rights is very essential for the development of the country. The protection of IPR is essential for safeguarding intellectual, cultural, and economic growth given India's political, social, and economic development.

CAN PATENTS ENJOY HAPPILY EVER AFTER?-

A NOTE ON EVERGREENING

Aavani. R. C, 8th Sem BA



A Brief History

The Patents Act, 1970 provided for process patents and not product patents in order to protect the domestic industry from foreign competition and to stimulate the Indian economy through domestic drug manufacturing. This was also influenced by the Ayyangar Committee Report which, in 1959, recommended that India needed patent law provisions that would protect it from exploitation of developed countries. It was against the backdrop of the commencement of the Act that the generic drug industry in India hit a boom. However, in 1995, India was asked to amend its Patent rules and make it TRIPS (The Agreement on Trade Related Aspects of Intellectual Property Rights) compliant to make an entry into the WTO. After seeking an extension for 10 years, India finally amended the 1970 Act in 2005 to grant patents to pharmaceutical products. With the primary objective of discouraging evergreening, Section 3(d) of the Act was amended at the same time. It created a limitation to not grant patent to the mere discovery of a new form of a known substance which does not result in enhancement of the known efficacy of that substance. It further stated that for the purposes of the clause, salts, esters..., combinations and other derivatives of known substances shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy.

What is Evergreening?

Evergreening refers to a practice by which the pharmaceutical companies attempt to unfairly extend the initial patent duration by seeking a secondary patent for a product that they develop with minor modifications. The present duration of a patent is twenty years, after which it expires and the government allows other companies to manufacture the same. This is done with a view to increase competition and thereby decrease price of the medicines, so that it is affordable to poor patients. However, this acts as a hindrance to the monopoly of patent holders, because of which they resort to evergreening.



What is the big deal here?

The challenge faced while applying for pharmaceutical patents is that the statute does not define what constitutes “efficacy”, and what data is required to be established to satisfy the efficacy of a product with respect to Section 3(d). The question came before the Supreme Court in **Novartis A G v. Union of India ([2013] 13 S.C.R. 148)**, pertaining to a patent application for the beta crystalline polymorph of the drug Imatinib Mesylate developed by Novartis, prescribed extensively Chronic Myeloid Leukaemia, one of the most common blood cancers in eastern countries.

The Supreme Court, in this case, reiterated the narrow interpretation by the Intellectual Properties Appellate Board (IPAB) and the Madras High Court that efficacy refers solely to therapeutic efficacy. This means that although the secondary pharmaceutical product may be more stable, more potent, less toxic, easier to administer and may even be commercially viable, so long as it does not contribute to a better ability to treat a medical condition it will not be granted patent. Novartis lost the case and many hailed the verdict in view of its social welfare orientation that guaranteed the access of generic medicines to poorer patients.

In the article titled ‘**Novartis Ag v. Union of India: "Evergreening", Trips, and "Enhanced Efficacy" under Section 3(d)**’, published by the journal of Intellectual property Law by the University of Georgia, the author, **Dorothy Du** provides three problems that may arise in the long run due to the decision. Firstly, if the other developing countries follow the same stand as India, the lack of robust patent systems around the world would disincentivize innovation. Secondly, this has a higher chance of affecting India's trade relations with MNCs, that in turn affect the flow of Foreign Direct Investments (FDI), necessary for the growth of the economy. Finally this narrow interpretation might come as a challenge to Indian pharmaceutical industries as their incentive to create more efficacious drugs will be diminished given that it shall not be patented.

It is evident that Section 3(d) does act as an effective tool in restraining evergreening of patents, at the same time by adhering to the mandates of TRIPS and not outrightly disregarding pharmaceutical product patents. Albeit the valid criticisms, this is the stand that India can rightfully take as a developing country, owing to the fact that a major chunk of its population is still in poverty. It might take a few more years for India to finally liberalise the said provisions.

THE NEEM PATENT CASE



Gifty Maria Mathew
6th Sem BA

In June 1992, the United States Patent Office (USPO) issued Patent to W.R. Grace & Co., an agricultural chemical company based on Florida, for the invention of a method to extract stabilized azadirachtin in solution & the stabilized azadirachtin solution from the neem tree to be used as pesticide. In March 1994, the Environmental Protection Agency registered Neemix, the solution for use on food crops, making it the first of its type in the United States.

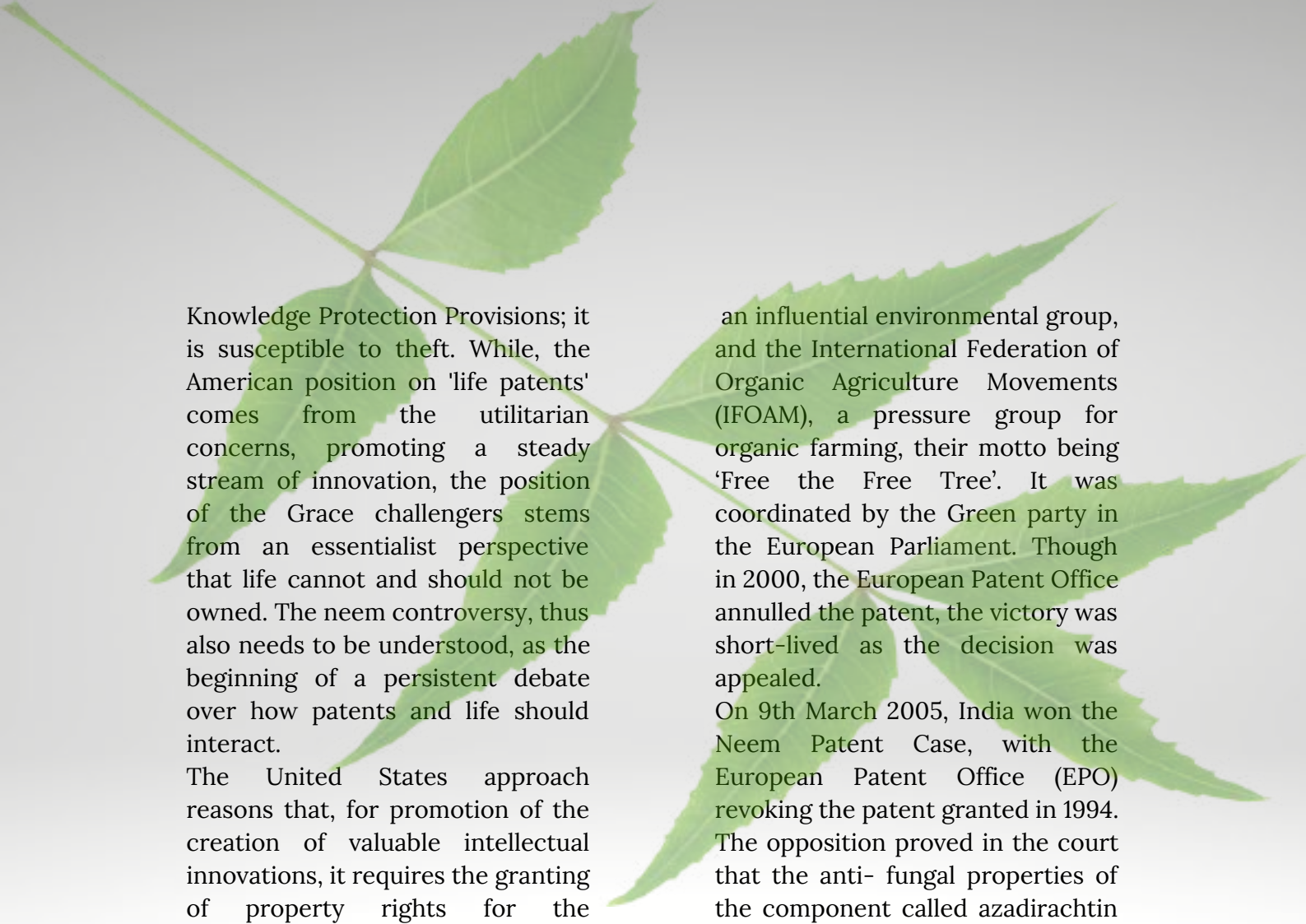
Interestingly, long before any official discovery, farmers in India practiced the same, to protect their crops from pests.

The Grace patent, ex facie appeared, a fabulous instance of American discovery, innovation, and commercialization. Laws in the US mandates purification or modification of a naturally occurring compound for grant of a patent with claims to the purified substance. Other requirements of novelty, usefulness etc were also met by the Grace patent as per US Law.

For the activists the patent became a rallying point against the Western imperial misappropriation of developing countries' biological knowledge and resources.

In September 1995, a coalition of several groups and Indian farmers, led by the "Foundation on Economic Trends", filed a petition with the U.S. Patent and Trademark office, to abrogate the patent. They put forth that the US Companies' so-called discoveries were the actual stealing and pirating of the indigenous practices and knowledge. The fact that big businesses' ownership of the rights to living organisms, undermining the rights of poor farmers in developing countries, was another worrier. The question raised was whether, neem tree being a product of nature was patentable. Interestingly, Grace had a patent, only on the process of making the emulsion and not upon the tree. The US contention also maintained that the patent would only benefit Indian economy.

While for many, the neem tree controversy was about the unequal distribution of Grace's economic gain, others exemplified the unfair treatment of the international intellectual property regimes towards indigenous communities. They raised that since, intellectual property regimes are deficient of Traditional



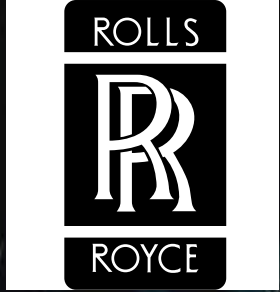
Knowledge Protection Provisions; it is susceptible to theft. While, the American position on 'life patents' comes from the utilitarian concerns, promoting a steady stream of innovation, the position of the Grace challengers stems from an essentialist perspective that life cannot and should not be owned. The neem controversy, thus also needs to be understood, as the beginning of a persistent debate over how patents and life should interact.

The United States approach reasons that, for promotion of the creation of valuable intellectual innovations, it requires the granting of property rights for the respective creation, without which incentives would not exist for the inventors, who spend vast amounts of time, energy, & money to develop new products. The utilitarian justification for this approach is that society at large are beneficiaries of these exclusive rights granted to the innovators.

The challengers of the patent contain that intellectual property right is only created when the object in question is the fruit of one's labour and isn't pre-existential. While protests against the patenting of neem products began in India in 1993, the petition was filed only in 1995 by the coalition consisting of Indian Research Foundation for Science, Technology and Ecology,

an influential environmental group, and the International Federation of Organic Agriculture Movements (IFOAM), a pressure group for organic farming, their motto being 'Free the Free Tree'. It was coordinated by the Green party in the European Parliament. Though in 2000, the European Patent Office annulled the patent, the victory was short-lived as the decision was appealed.

On 9th March 2005, India won the Neem Patent Case, with the European Patent Office (EPO) revoking the patent granted in 1994. The opposition proved in the court that the anti-fungal properties of the component called azadirachtin in the neem seed, was already known to Indian farmers, who applied the same in their fields.



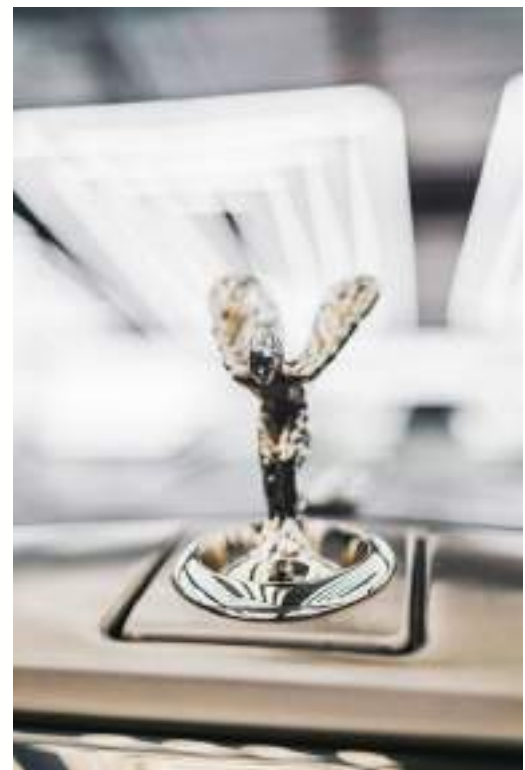
UNSPIRITED ECSTASY

Arjun V Nair
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VOLKSWAGEN V. ROLLS-ROYCE

Cars are some of the most intoxicating, most beautiful things ever forged by mankind. The blend of hourly craftsmanship and sophisticated technology with precision engineering rolls out a piece of art onto the pavement and makes us look into more than what the steelwork offers the le man. These four wheelers made out of the intellect of men and women are protected by the conventions and charters in order to recognise a brand and its works worldwide. Therefore, it will be of high value to throw lights on one of the most cardinal and controversial acquisitions ever made in the history of the automobile industry.

On 28th July, 1998, Volkswagen AG, the German Multinational Automotive Manufacturer, had cost its arms and legs when the company decided to acquire the Luxury Automobile manufacturer the Rolls Royce, a legacy that Charles Rolls and Henry Royce had made for the Luxury Automobile lovers offering Bespoke Motor Cars and a symbol of craftsmanship.



Volkswagen, is one of the largest Vehicle manufacturers and the wealthiest group with an armory of several motorcar companies under its fleet ranging from budget friendly VW Beetle to the Italian Bulls of Lamborghini and even the Record Breakers of BUGATTI's, including several others like the Volvo, Audi, Skoda, Scania so on and so forth. Therefore, the company's decision to acquire the iconic luxury brand can be funneled as a gamble to take its name in the segment that no one had played before except for the Rolls family themselves.

Rolls Royce Ltd., Britain's quality symbol for fine automobiles and sophisticated jet engines, declared bankruptcy and went into receivership following the financial struggle in 1971. The Company, although came up as a luxury automobile manufacturer had also played its cards in the jet engine manufacturing unit that had also catered to the fighter jets in the World Wars and also powering the Commercial Airliners including Airbuses. Bentley Motors was a subsidiary of Rolls Royce that it had acquired on its era, making both of them a symbol of luxury and class. The Motor Company division suffered the economic hardship in its time wherein Vickers PLC, a British Engineering Company acquired the Motor Company called Rolls Royce Motor Cars Pvt Ltd. in 1980 and thereby splitting the aviation (Rolls Royce PLC) and the Motor company.

However, Rolls Royce PLC had maintained the ownership of the "Rolls Royce" trademarks and licenses the use of the trademark to Rolls Royce Motor Cars Pvt Ltd. and further contracted in a clause that Vickers would have the exclusive control of Rolls Royce mark when the company was sold to a foreign owner.



Enter BMW (Bayerische Motoren Works), the German engine specialist that later came into the car manufacturing fraternity becoming famous for its cars that promises the best build quality. BMW used to and still supplies the development services on engine chassis, paint technology, engine ancillaries, and air conditioning to Rolls-Royce Motor Cars Ltd. It can be still seen in the interiors of a Rolls Royce and also the silent but subtle growl of the V12 engine that the Rolls Royce used to have before they manufactured their own Engines. The Supply agreement had granted BMW's right to cancel the supply of engines with twelve months notice if Rolls-Royce Motor Cars Ltd. was sold to another car company, or three years notice if it was sold to a non motor vehicle manufacturer.

By late 1990s, Rolls Royce Motor Cars Pvt Ltd suffered its hit in the industry whereby many companies offered to buy the company, rendering Vickers PLC to drop the project and pursue its interest in Marine propulsion equipment.

BMW tendered a price of \$580 million to acquire the remains of what the company did not have of Rolls Royce then. Which, a month later, was overquoted by Ferdinand Piech, the Chairman of Volkswagen AG for a sum of \$795 million made the job done. Thereby entering a new alien territory with the vision to expand its glory.

Now, it is pertinent that the whole liability of tracing the patents, trademark and even prior contracts of the company lies on the Legal Attorneys on a case of mergers and acquisitions so as to ensure that no stones are left unturned on its course. This chapter in the Automobile industry is a precedent to every company transactions later made and a lesson that every attorney for a company abides by so as to prevent the incidents that later happened to the VW Group. The clouds were on the horizon for the German manufacturer. Months after purchase, Rolls Royce PLC (the aviation Company) notified VW regarding the trademark license agreement regarding the retainment of the trademarks of the Rolls Royce Company. The second shockwave was when BMW decided to back out of the Engine Supply Agreement invoking the twelve-month notice stipulating the stoppage of supply of engines leaving VW with no engines for its cars.



The Sloppy due diligence of the Counsels had a major role in the face of one of the most embarrassing moments in Automobile industry

The third one was the showstopper when BMW bought the trademark from the longtime partners Rolls Royce PLC for \$65 million, leaving Volkswagen with a factory, unionized British laborers and no engines and no rights to roll out a Four wheeler with the Rolls Royce badge out of the factory.

The sloppy due diligence of the Counsels had a major role in the face of one of the most embarrassing moments in the automobile industry and the IPR field which later had to be settled by a Negotiated Agreement over a golf meeting that resulted in VW retaining its Bentley trademark, a factory with unionized workers and a partnership at the perusal of BMW in order to run the Cylinders under the hood and to hold the “Spirit of Ecstasy” held high.

PATENTION

News regarding IPR



KAIRA DISTRICT COOPERATIVE MILK PRODUCERS UNION LTD V. MAA TARA TRADING CO (‘AMUL’), CS 107 OF 2020

In this case, a famous cake shop in Kolkata was found giving away complimentary candles packaged in a box with a logo similar to that of the well-known brand ‘AMUL’. The non-competitor was held liable for trademark infringement here.

Sec 29(4) of the Trademarks Act, 1999 provides three conditions for trademark infringement by a non-competitor. Firstly, that the mark is identical or similar to the registered trademark. Secondly, that it should be used in relation to goods and services not related to the registered trademark. And lastly, that the usage of the trademark has taken an unfair advantage or detrimental to the distinctive character or repute of the registered trademark.

Although the first two conditions are prima facie satisfied, the court failed to properly employ the last condition. A major criticism that arose was that the court used the test for establishing the tort of ‘passing off’ rather than properly applying the last condition u/Sec29(4).

Passing off is centered around the usage of trademark whereas in Sec 29(4), it is necessary to establish direct and substantial harm to the goodwill of the registered trademark or the undue benefit gained by the non-competitor, both of which the court failed to look into.

<https://spicyip.com/2022/10/amul-trademark-row-scrutinizing-cal-hcs-ruling-on-infringement.html>





COPYRIGHT ISSUES CANNOT BE DECIDED IN AN ANTICIPATORY BAIL APPLICATION- SC

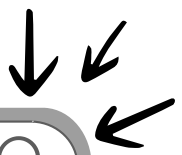
**(VIJAY KIRGANDUR & ANR. V. THE
STATE OF KERALA THROUGH
SECRETARY DEPT OF HOME &
ANR.)**

In an order passed by the Supreme Court last month, pertaining to the copyright infringement of the 'Varaharoopam' song, the CJI harshly criticised the order of the Kerala High Court imposing a condition restraining the song being shown in the movie in order to grant anticipatory bail application.

A complaint was lodged by Mathrubhumi Printing and Publishing Co Ltd. and the popular band "Thaikkudam Bridge", the copyright holder and creator of the song respectively. The allegation was that the 'Varaharoopam' song in the movie 'Kantara' was a plagiarised version of their song 'Navarasam'. The Kerala High Court had imposed a condition that the movie should not exhibit the song in order to grant anticipatory bail to the producer Vijay Kirgandur and director Rishab Shetty.

However, the Supreme Court while issuing the notice of the petition filed by Kirgandur and Shetty, stayed the order of the High Court, stating that a copyright suit cannot be decided in an anticipatory bail.

https://www.livelaw.in/pdf_upload/60152023180141733order10-feb-2023-458430.pdf





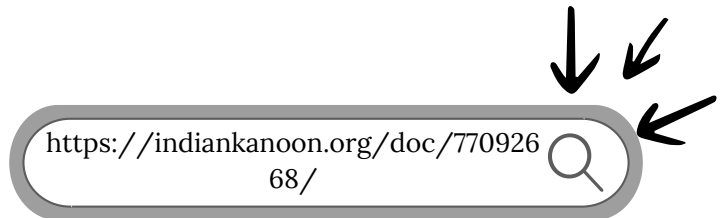
CALCUTTA HIGH COURT RESTRAINS THE REFERENCE AND UNAUTHORISED USAGE OF DABUR'S 'REAL FRUIT JUICE'

(DABUR INDIA LIMITED VS DHRUV RATHEE AND ORS., CS/41/2023)

In a suit for protection of its intellectual property rights, Dabur made a complaint against a YouTuber contending that he has released a video to specifically denigrate packaged fruit products, in particular that of the petitioners. The allegation is that he has made an unfair comparison between carbonated drinks and the 'REAL' fruit juices of Dabur. Further, it was also contended that in his video he has used clips from its advertisements as well as used blurred logos of the same, with the intention of tarnishing the reputation of the product.

The Calcutta High Court, through its order on 15th March, 2023 held that unauthorized use of the packaging, label and logo of the product 'Real' in the impugned video violated the trademark and copyright protection granted to the petitioner and is impermissible.

The impugned video was held to be violative of section 29(9) of the Trade marks Act, 1999 and the Copyrights Act, 1957. The order further stated that the video can be circulated further only after removing offending portions pertaining to the product and that the same be done within seven days.



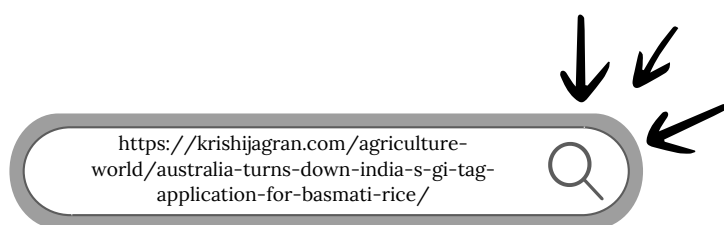


AUSTRALIA REJECTS GI TAG APPLICATION OF BASMATI RICE

The Agricultural and Processed Food Products Export Development Authority, APEDA failed in obtaining a GI Tag for Basmati rice, known for its nutty aroma, long and slender grains, soft texture, delicate curvature, comparatively low glycaemic index, little or no breadthwise swelling on cooking, high grain integrity on cooking, and linear kernel elongation on cooking - the result of a combination of factors including agro-climatic conditions in areas where this rice variety is grown. Australia has refused to accept that Basmati is exclusive to the Indo-Pak region, and states that it is found in a majority of the Asian countries.

The APEDA is the government agency in charge of export promotion and GI registration for Indian products sold abroad, and is keen on going ahead with an appeal. Whatever the decision ahead be, the shares of Basmati rice companies fell by 1% on the stock market.

India had been facing similar blows from the European Union and the USA as well for basmati rice. The former was due to objection by Pakistan for the tag and in the latter case, due to a patent obtained by RiceTec for Texmati rice with Basmati properties.



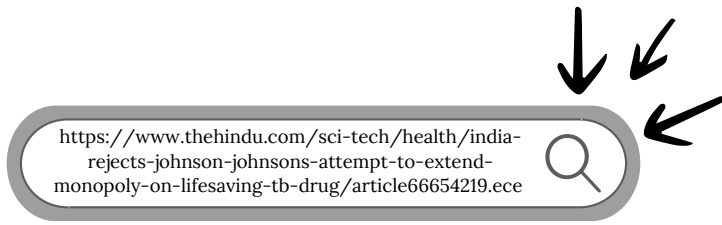


JOHNSON & JOHNSON'S ATTEMPT TO EVERGREEN THEIR PATENT ON BEDAQUILINE REJECTED BY THE INDIAN PATENT OFFICE

The Indian Patent Office rejected the attempt of Johnson & Johnson to extend their monopoly over the anti-tuberculosis drug Bedaquiline. Given that its current patent ends this July, hopes have been high that generic drug manufacturers like Lupin and Macleods might take over its production, paving the way for cheaper availability of the drug.

The extension was sought on the basis of its claim that they had invented the method for making a derivative of quinoline in its salt form. However, the Assistant Controller of Patents and Designs held that the invention claimed was obvious and did not involve any inventive step, because of which it is non-patentable. By virtue of Sec 3(d) of the Patents Act, it was held that patents cannot be claimed for methods and compositions of salt forms that have been known in the scientific world for more than three decades.

This decision comes as a huge relief to the Indian population. However, export of the generic drugs to countries like South Africa might be still impossible due to the fact that Johnson & Johnson holds patents there.



<https://www.thehindu.com/sci-tech/health/india-rejects-johnson-johnsons-attempt-to-extend-monopoly-on-lifesaving-tb-drug/article66654219.ece>





Anand and Anand - Law Firm Profile

Anand and Anand is a leading full-service Intellectual Property law firm that gives legal solutions to all the problems that are faced in respect of Intellectual Property Rights. The firm has its branches in New Delhi, Noida, Mumbai, and Chennai. The law firm was established in 1979 and is among the largest practices specializing in IP laws. The law firm is ranked among the Top Tier Intellectual Property Law Firms in Asia.

Professionally, this firm is being managed by 28 Partners and 2 Directors supported by a management team comprising the CEO, CFO, and CIO. Currently, it has almost 400 members including over 100 attorneys/engineers, paralegals and researchers who are expert in numerous practice areas relating to intellectual property and beyond to address complex IP challenges of all types. The legal, scientific, and technical abilities that they possess in addressing complex Intellectual Property challenges of all types have been widely accepted by their clients, industry bodies, enforcement agencies, and leading IP publications.

They regularly deal with the protection of IP before different forums including the courts at all levels, the Patent Offices, the Trademark Offices, the Copyright Office, the Design Office, Intellectual Property Appellate Board, WIPO, and the National Internet Exchange of India. They balance commercial realities with legal pragmatism and offer creative solutions that tackle the root and not merely the symptoms of any problem. They have been instrumental in paving the way for a stronger IP regime and are dedicated to pushing the envelope when it comes to change in substantive and procedural law and helping clients monetize their intellectual property.

The firm also organises the prestigious annual Raj Anand Moot Court Competition to increase the awareness of IP and to promote budding expertise across the country within the field of Intellectual Property.



1. America's favorite blonde-haired doll barbie, not only has a trademarked name but even her favorite color is legally protected. And using the color—officially called Pantone 219C—is something that Mattel won't let you get away with. The brand even sued RCA Records for using the color in the packaging for Aqua's single "Barbie Girl"—the song's title and lyrics also got the band in hot water.



2. Apple's slide-to-unlock function was more than just a cool feature—it's also a patent owned by Apple. The company even sued Samsung for \$119.6 million for using a similar function and won the decision after a long battle in court. Besides the swipe-to-unlock feature, the company also has a trademark for the sound you hear when you turn on one of its devices.

3. The longest published patent application is said to be the "Compositions and Methods for the Diagnosis and Treatment of Tumor" which has 7,154 pages. The longest granted patent is titled, "Pseudo-Random Number Generator". It has 3,333 pages, out of which, 3,272 contains drawings whereas, the title of the shortest patent is "Metoprolol Succinate" which is just half of a page long.



4. The Guinness Book of World Records credits Shunpei Yamazaki of Japan with having the most patents: 11,353 in 12 countries as of 2016.

5. In 1849, President Abraham Lincoln got a patent for a device that could be filled with air to allow a ship to pass through shoals or shallow water. Lincoln remains the only president to hold a patent, although the device was never put to use.



6. In 1941, the star of films from the 1940s and '50s, Hedy Lamarr, co-invented a method for rapidly modulating radio frequencies to create a secret code. The patented method was used to guide torpedoes to their targets without the radio signal being intercepted. Many years later, a similar system was adapted for use in encrypting cell phone and Wi-Fi signals.

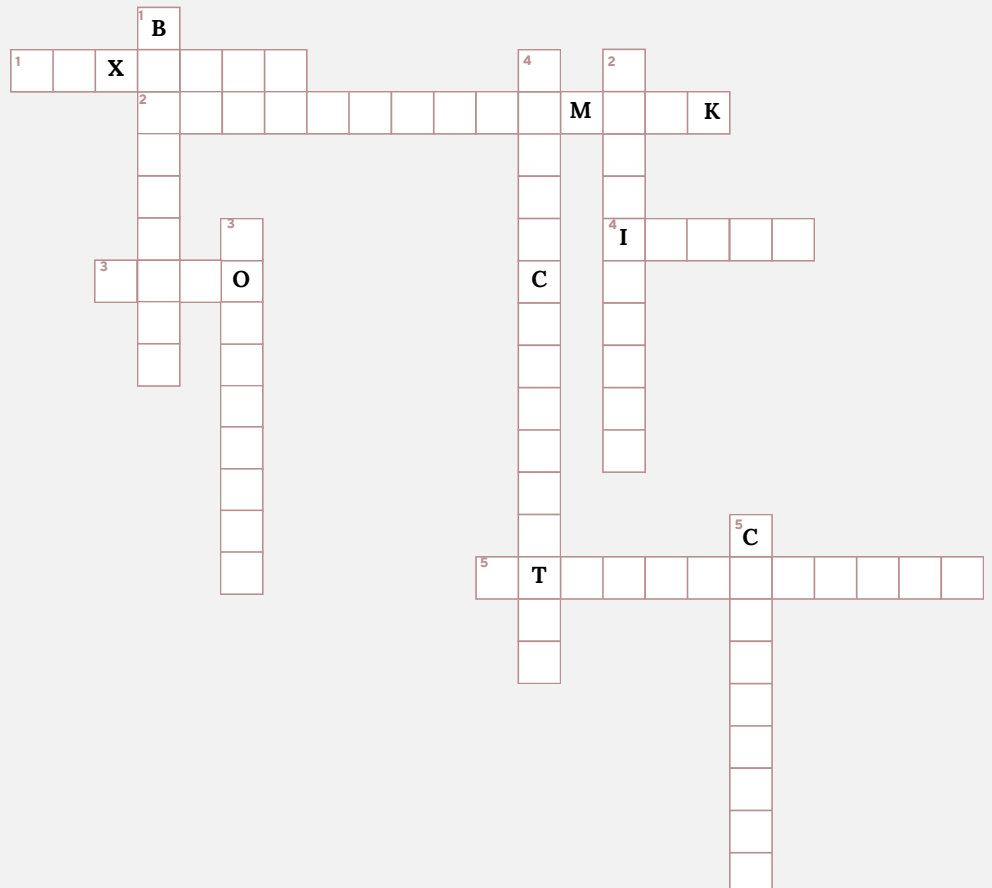
Crossword

DOWN

1. DIAMOND V. CHAKRABORTY
2. COMMON LAW REMEDY
3. IP BY ARTIST
4. LEADING INTERNATIONAL COPYRIGHT TREATY, 1886
5. YOUTUBE'S SYSTEM FOR COPYRIGHT OWNER'S TO MANAGE AND IDENTIFY COPYRIGHT INFRINGEMENT

ACROSS

1. COMPULSORY LICENCE
2. GI TAG
3. INTERNATIONAL ORGANISATION
4. 1ST RECORDED PATENT, COUNTRY
5. 1ST COPYRIGHT STATUE



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