



# WTO-IPR Bulletin

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## Ten-fold Rise in Patent Applications, says Nasscom

Frontline IT companies have seen a 10-fold increase in the number of patent applications made over the last five years, an indication of the growing push towards automation and higher margin offerings. Data from industry body Nasscom show that Tata Consultancy Services, Infosys, Wipro and others have filed about 1,500 patents in fiscal 2014 against 150 in 2009. Such a move is an important part of their non-linear growth strategy, where the companies are trying to de-link their revenue growth from the number of people added. This is expected to improve their profitability in a changing business environment. R Chandrashekhar, President of Nasscom, believes that the growing number of technology start-ups, especially those that are focused on technology products, have contributed to this trend. "Higher number of patents increases the value proposition of this industry as this brings global service delivery capabilities, combined with innovation of the highest order. The industry would not have been able to maintain its position globally if not for these developments," said Chandrashekhar. TCS, for instance, had filed 443 patents last year, of which 33 were granted, the company's annual report. During the same period, Infosys applied for 79 unique patent applications in India and abroad. Patents are developed to protect the research cycle and keep it moving. Without patent protection, research would come to a halt.

[Source: The Hindu-Business Line, 10 February, 2015]

## Banaras Glass Beads set to get GI Certification

Earrings, bracelets and neck-pieces made out of multi-coloured glass beads are handicrafts with roots in villages of Varanasi. The exclusivity of these beads called 'kaanch ke moti' would remain intact with Geographical Indication Registry of India agreeing to certify the handicraft. An application to this effect was presented last year by export promotion commissioner, department of Small Scale Industries and Banaras Glass Beads Association. "The application has been accepted and a gazette notification on it has been issued. The certificate would be awarded after March when the mandatory waiting period is over," said Chinnaraja G Naidu, Assistant Registrar of Geographical Indications (Registration and Protection) India. President of the Banaras beads association, Ashok Gupta informed that more than 5,000 artisan families in Varanasi, parts of Mirzapur and Sonbhadra manufacture 50,000 varieties of glass beads in different designs, shapes, sizes and colours. A worker may take 5-20 minutes to make a single bead. Alok Kanungo—Assistant Professor, Archaeology Department, Indian Institute of Technology, Gandhinagar who has extensively studied the glass beads of India—finds Varanasi glass beads unique. He told TOI there are three major glass bead industries in the country which not only produce the beads using traditional techniques but also export them; namely Papanaidupet (Chittoor, Andhra Pradesh), Puralpur (near Hathras) and Varanasi. "The technique used in Varanasi, called lamp winding, makes it unique," he said. In this, glass is transformed into rods or sticks known as canes. Workers melt them at a small heat source, usually a lamp (hence the name). The glass is then wound around a wire or a thin mandrel. While the glass is still hot, the bead may be shaped or given decoration with other Kanungo. He added that ethnographically, beads are produced following this technique in Venice (Italy), Bihemia (Czech Republic), New Gablonz (Germany), Jombang (Indonesia) and in parts of China, France and USA. Raahul Dutta, counsel for the UP government who is pursuing the case, said that GI certificate would benefit craftsmen by safeguarding its uniqueness which has been challenged by men and machines in China. The state would also be able to generate revenue from the work.

Dr H.S. Chawla has been nominated in Editorial Board (2015-2017) of Journal of Intellectual Property Rights.

[Source: The Times of India, 7 January, 2015]

## GI Mark for Basmati delayed as MP Cos, Farmers Oppose APEDA

While the Agriculture and Processed Food Products Export Development Agency (Apeda) is in a hurry to register the geographical indication (GI) for Basmati rice, the agency's legal battles with Madhya Pradesh-based companies and farmers are delaying

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the process. Basmati Growers Association of Pakistan has also challenged Apeda's move. Apeda representatives said the GI registration should be seen from a "national interest" perspective, as Pakistan is also claiming rights over Basmati. Apeda and the Madhya Pradesh government and growers have been locked in a dispute on whether the Basmati grown in these parts has the characteristics of original Basmati grown in Uttarakhand, claimed for inclusion in GI registry. The agency has challenged the GI Registry order, asking them to amend the application for registration to include the uncovered area, including certain areas in Madhya Pradesh, before the Intellectual Property Appellate Board (IPAB). The legal battle is on at IPAB, in Chennai. On Monday, when various appeals and petitions related to the GI registration had come up, a new petition was filed by MP-based

New Darpan Social Welfare Society to implead in the case. During the hearing, IPAB chairman K N Basha and technical member (trade marks) Sanjeev Kumar Chaswal posted the matter for hearing to the last week of February. The Board has heard six of the nine applications, related to the matter and need to hear the Basmati Growers Association from Pakistan, along with another application from Daawat Foods, a leading company in the business. A K Gupta, director of Apeda, said, "We must have the GI for Basmati before others start claiming and it is important from the global perspective as the matter is of national interest." He added if everybody starts claiming and growing, it would lead to oversupply. This will have consequences on farmers.

[Source: Business Standard, 8 January, 2015]

### High Court stops Cipla's Generic Drug Sales

In a move that may be a damper for patients suffering from lung and respiratory diseases, the Delhi High Court has decided in favour of drug MNC Novartis, restraining generic firm Cipla from selling its affordable version of respiratory drug Onbrez in the domestic market. Sources said the court on Friday issued an interim injunction directing Cipla to stop the sale of the generic drug in the market, and apply for a compulsory licence on the drug if it feels that sufficient quantities are not available for patients in the country. Cipla may file an appeal against the order, sources said. The company had late last year launched its version of the drug at Rs 130 for 10 pills, at one-fifth of the price of the Novartis' Onbrez, which is sold at Rs 677 (for 10 pills). When contacted, Novartis India VC and MD Ranjit Shahani told TOI, "It's a positive outcome to the patent infringement litigation, which has granted an interim injunction preventing the relaunch of Cipla's Indacaterol." Novartis had moved the Delhi HC in December last year, seeking to restrain Cipla from selling the generic version of the drug Onbrez. In its plea, Cipla had said Novartis has had patents on the medicine since 2008, but instead of producing it in India has imported only a "negligible quantity", leading to a shortage in the market. Under the World Trade Organization TRIPS Agreement, compulsory licences are legally-recognized means to overcome barriers in accessing affordable medicines, where a government allows a company to manufacture a patented drug, without the consent of the innovator company. In the hearing chaired by Justice Manmohan Singh, the court further directed Cipla to file an application with the government for a compulsory licence within two weeks, and that the decision (on the application) should be taken over a period of six months, sources told TOI. Cipla had argued in its plea seeking revocation of Novartis patents that there are 1.5 crore patients suffering from lung and respiratory diseases in India, while Novartis has imported a negligible quantity, making it available to only 8,000 patients over a period of two years.

[Source: The Times of India, 10 January, 2015]

### German Co's Patent for Asthma Drug Revoked

India's Patent Office has revoked a patent on asthma drug Spiriva (tiotropium bromide monohydrate), held by German major Boehringer Ingelheim (BI), on an opposition filed by generic company Cipla. The patent was revoked on the grounds that it lacks an inventive step, fails to demonstrate therapeutic efficacy as well as requirements under section 3(d). This is a landmark case as the patent was revoked after it was granted, with much scrutiny and examination, and after the pre-grant opposition had been dismissed a few years back," legal experts say. After Novartis lost its monopoly on blockbuster anticancer drug Glivec two years ago, section 3(d) of the Patents Act has emerged as an important safeguard, specifically relevant for pharma and chemical industries, which prohibits grant of patents to new forms of known substances, unless the new form results in enhanced efficacy over the known substance. "It is clear that applicant has failed to establish any technical advancement or any economic significance of the compound tiotropium bromide monohydrate over the disclosures of prior art," the patent office said in its 92 page order, adding the invention fails to demonstrate therapeutic efficacy and therefore fails to fulfill the requirement of a patentable invention under section 3(d) of the Patents Act. When contacted, a BI spokesperson said the company's Indian patent relating to tiotropium bromide monohydrate had been previously granted and all other requirements of patentability had been confirmed by the patent office. BI will be evaluating carefully the basis for the recent decision once the detailed reasons are available. The order said, "The physical stability of the compound during formulation cannot be considered as a sole factor for improvement of therapeutic efficacy of the drug under as required under section 3(d) of the Indian Patents Act, almost the same view was expressed in the landmark decision issued by Hon'ble Supreme court in Novartis case," adding the compound is "a product of mere trial and error" and does not "involve any inventive skill". The safeguard is being used to prevent "evergreening" of patents in chronic ailments, not just cancers and hepatitis C, but also others like asthma and lung diseases. The German MNC was granted a patent on tiotropium bromide monohydrate in 2012, which was valid till 2021.

[Source: The Times of India, 13 March, 2015]

### India Ranked Second Last in Intellectual Property Index

India has improved its rank marginally on the intellectual property (IP) index released by the US Chamber of Commerce on Wednesday. The US body has moved India to the second last place from rock bottom in its ranking order last year. The annual

IP index, which this year ranked a total of 30 countries on a series of indicators reflecting their IP environment, had put India at the bottom in the first two years. This year, Thailand has been ranked at the last place while US retains the top spot.

[Source: Economic Times, 04 February, 2015]

### India, US to Enhance Engagement on Intellectual Property Rights Issues

India and US today agreed to enhance their engagement on intellectual property rights, a vexed issue between the two countries. Visiting US President Barack Obama and Prime Minister Narendra Modi also reaffirmed the importance of providing transparent and predictable policy environment for fostering innovation. "Both countries reiterated their interest in sharing information and best practices on IPR issues, and reaffirmed their commitment to stakeholders' consultations on policy matters concerning intellectual property protection," a joint statement issued after the meeting of the two leaders said. Recognising the progress made in constructive engagement on intellectual property under the last round of the India-US Trade Policy Forum held in November last year, the two sides also looked forward to enhance "engagement on IPRs in 2015 under the High Level Working Group on IP, to the mutual benefit of both the countries," the statement said. The statement assumes significance as the US companies have alleged that India's IPR regime is discriminatory, particularly for pharmaceutical industry. India has consistently maintained its stand that its laws are compliant with global and WTO norms. India is also in the process of formulating a comprehensive policy on IPRs. A six-member think tank has already submitted the first draft report on that. Under the Trade Policy Forum, India and the US have set up a high-level working group on intellectual property. The TPF is the principal trade dialogue body between the countries. It has five focus groups: Agriculture, Investment, Innovation and Creativity, Services, and Tariff and Non-Tariff Barriers. On April 30, the US had brought out the Special 301 report, an annual review of the global state of IPR protection and enforcement, in which it has classified India as a 'priority watch list country'. On the report, India had said that the Special 301 process is a unilateral measure taken by the US under their Trade Act, 1974 to create pressure on countries to increase IPR protection beyond the TRIPS agreement. Earlier, the US industry had also raised the matter of India's rejection of patents for Bristol-Myers Squibb's Sprycel and Novartis AG's Glivec. It expressed concerns over issuance of a single compulsory license (CL) by India. The concerns identified in the USA's report are based on the inputs provided by the American industry on their perception of the level of protection provided by India to Intellectual Property. Issues that have been flagged in the report include, concerns over the provision of section 3(d) of the Patents Act, CL, inclusion of a statement relating to CL for green technologies in India's National Manufacturing Policy and challenges relating to enforcement of IP Rights. Section 3(d) of the Indian Patents Act 1970 does not allow patent to be granted to inventions involving new forms of a known substance unless it differs significantly in properties with regard to efficacy.

[Source: Economic Times, 25 January, 2015]

### Lectures in Seminars/Symposium

Dr H.S. Chawla, gave lectures on IPR and Plant Varieties Protection under PPVFR Act. In: Awareness workshops on Protection of Plant Varieties and Farmers' Rights Act, 2001, Organized by KVK, Jeolikot, GBPUAT, Pantnagar, March 31, 2015 and at KVK, Kafilgair, VPKAS, Almora, March 30, 2015. He gave lecture on New Seed Policy, PPV&FR related Issues in Vegetable Crops. In: Training Programme on Seed Production, Processing & Marketing of Important Vegetable Crops, Organized by Directorate Extension, GBPUAT, Pantnagar, 17<sup>th</sup> March, 2015

Dr Chawla delivered lecture on IPR Regime in India. In Doctoral Students Interaction Programme, organized by G B Pant Social Sci Inst., Jhusi, Allahabad, 14th March, 2015.

Dr Chawla. gave lecture on IPR Issues and Challenges in Biotechnology and Micro organisms. In Sensitization Workshop on IPR Protection in Agricultural Research, organized by ICAR-IIPR, Kanpur, 13<sup>th</sup> March, 2015.

### Apple told to Pay \$533m for Patent Infringement

Apple Inc. has been ordered to pay \$532.9 million after a federal jury in Texas found that its iTunes software infringed three patents owned by patent licensing firm Smartflash LLC. Though Smartflash had been asking for \$852 million in damages, tuesday night's verdict was still a blow to Apple. The jury, which deliberated for eight hours, determined Apple had not only used Smartflash's patents without permission, but did so willfully. Apple, which said it would appeal, said the outcome was another reason that reform was needed in the patent system to curb litigation by companies that don't make products themselves. "We refused to pay off this company for the ideas our employees spent years innovating and unfortunately we have been left with no choice but to take this fight up through the court system," Apple said in a statement. Smartflash sued Apple in May 2013, alleging its iTunes software infringed its patents related to accessing and storing downloaded songs, videos and games. "Smartflash is very happy with the jury's verdict, which recognizes Apple's longstanding willful infringement," Brad Caldwell, a lawyer for Smartflash, said in an email. The trial was held in Tyler, which over the past decade has become a focus

for patent litigation. Smartflash's registered office is also in Tyler. It was also in Tyler federal court that a jury in 2012 ordered Apple to pay \$368 million to Virnet X Inc. for patent infringement. A federal appeals court later threw out that damages figure, saying it was wrongly calculated. Apple tried to avoid a trial by having the lawsuit thrown out. But US District Judge Rodney Gilstrap, who presided over the case, ruled earlier this month that Smartflash's technology was not too basic to deserve the patents. Apple had asked the jury to find Smartflash's patents invalid because previously patented inventions covered the same technology. Smartflash's suit said that around 2000, the co-inventor of its patents, Patrick Racz, had met with executives of what is now European SIM card maker Gemalto SA, including Augustin Farrugia, who is a senior director at Apple.

[Source: Times of India, 27 Feb., 2015]

### Facebook's Patent Application Rejected

The Patent Office has refused to entertain Facebook's application for patent to the "method and apparatus for an application crawler" that is used to search the Web for files, including texts and videos. The Patent Office said that the invention was not allowed under the Patents Act, 1970. V Saravanan, Assistant Controller of Patents & Design, in his order on Wednesday said that considering the submissions of the agents of the applicant and their arguments put forward during the hearing, he was of the opinion that the claims of the alleged invention cannot be allowed under the Patents Act. Therefore, he rejected the application under Section 15 of the Act. The application was filed by Truveo Inc in 2007. This was later assigned to Facebook. Facebook Crawler fetches content, including text and video, from various websites and generates a preview for browsers.

[Source: The Hindu-Business Line, 24 March, 2015]

### SC stays HC order against Glenmark in Patent case

The Supreme Court on Wednesday stayed a Delhi High Court order restraining Glenmark Pharmaceuticals from manufacturing and selling its anti-diabetes drugs Zita and Zita-Met for allegedly infringing the patent rights of US drug major Merck Sharp and Dohme (MSD). Agreeing to hear the appeal filed by the Indian company, a bench headed by Ranjan Gogoi issued notice to MSD while staying the HC's interim order. It listed hearing in the case for April 28. Senior advocates Abhishek Manu Singhvi and Prathiba Maninder Singh, appearing for Glenmark, contended that lakhs of patients are taking Zita and Zita-Met drugs on a daily basis and they will suffer due to its non-availability due to the HC order. US-based Merck's subsidiary in India dragged Glenmark to court, seeking to halt the sale of a more affordable version of its diabetes drug. The MNC had sought an injunction against Glenmark marketing the generic version of its diabetes drug. Glenmark priced its diabetes drug last year around 30% cheaper than Merck's Januvia, enabling patients to save up to Rs 5,000 a year. "It is submitted that the impugned judgment suffers from blatant errors and is contrary to legal provisions along with well-settled principles of law as per which no interim injunction is granted in favour of a party if there is an alternative efficacious remedy available," Glenmark said in its petition.

[Source: Economic Times, 26 March, 2015]

### Suven Life gets Patents for Molecules in three Countries

Drug firm Suven Life Sciences has been granted patents each by Canada, Japan and Korea for molecules, aimed to be developed as drugs, for the treatment of neuro-degenerative diseases. The patents are valid through 2030, Suven Life Sciences said in a filing to the BSE. Commenting on the development, Suven Life CEO Venkat Jasti said: "We are very pleased by the grant of these patents to Suven for our pipeline of molecules in CNS arena that are being developed for cognitive disorders with high unmet medical need with huge market potential globally." The granted patents include the class of selective 5-HT compounds discovered by the company and are being developed as therapeutic agents useful in the treatment of cognitive impairment associated with neuro-degenerative disorders like Alzheimer's disease, Huntington's disease, Parkinson and Schizophrenia, among others, Suven said. "With these new patents, Suven has a total of eighteen granted patents from Canada, sixteen granted patents from Japan and sixteen product patents from Korea," it added. These patents are exclusive intellectual property of Suven and are achieved through the internal discovery research efforts, Suven said. "Products out of these inventions may be out-licensed at various phases of clinical development like at Phase-I or Phase-II," it added.

[Source: Economic Times, 24 March, 2015]

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