

International conference on 'Utilization of the Traditional Knowledge Digital Library

Tuesday, March 22, 2011

New Delhi: A three-day international conference on 'Utilization of the Traditional Knowledge Digital Library (TKDL) as a Model for the Protection of Traditional Knowledge' will begin here tomorrow. Encouraged by the ongoing support of Indian Government for internationalizing India's pioneering Traditional Knowledge Digital Library as a template for the benefit of developing countries seeking to protect their traditional knowledge, World Intellectual Property Organization (WIPO), a specialized agency of United Nations, has collaborated with Council of Scientific and Industrial Research (CSIR). Dr Francis Gurry, DG, WIPO, considers this development as a concrete and potentially beneficial form of South-South Cooperation in which India's pioneering role would be recognized.



Misappropriation of traditional knowledge and bio-piracy of genetic resources are the issues of great concern for all the developing countries. These issues are being pursued at several multilateral forums, such as Convention on Biological Diversity, TRIPs Council, World Trade Organisation and World Intellectual Property Organisation. However, so far a 'global framework' for traditional knowledge protection system has not been established. It is mainly for this reason that Mexico had to fight a legal battle for 10 years to get the patent on Enola bean at the United States Patent & Trademark Office (USPTO) cancelled in July 2009. Similarly, the cancellation of Monsanto Soybean patent in July 2007 at the European Patent Office (EPO) took 13 years of legal battle.

India is the only country in the world to have set up an institutional mechanism – TKDL, to protect its traditional knowledge and to prevent grant of wrong patents. A collaborative project between CSIR and Department of AYUSH, Ministry of Health and Family Welfare, TKDL is a maiden Indian effort to help prevent misappropriation of traditional knowledge belonging to India at International Patent Offices. It enables cancellation/withdrawal of wrong patent applications concerning India's traditional knowledge at zero cost and in few weeks time. In sharp contrast, in the absence of TKDL, it took 10 years (1995-2005) to get Neem patent invalidated for antifungal properties at EPO.

The genesis of TKDL dates back to the Indian effort on revocation of patent on wound healing properties of Turmeric at the USPTO and anti-fungal properties of Neem at EPO. In 2000, the TKDL expert group estimated that about 2000 wrong patents concerning Indian systems of medicine were being granted every year at international level, mainly due to the fact that India's traditional medical knowledge existing in languages, such as Sanskrit, Hindi, Arabic, Urdu, Tamil etc. was neither accessible nor comprehensible for the patent examiners at the international patent offices.

The TKDL technology integrates diverse disciplines (Ayurveda, Unani and Siddha), languages (Sanskrit, Arabic, Urdu, Persian and Tamil), modern science and modern medicine. It has created a unique mechanism for overcoming the language and format barriers by scientifically converting and structuring the available information contents of 34 million A4 size pages of the ancient texts into five international languages, namely, English, Japanese, French, German and Spanish. Through TKDL, a Sanskrit verse can now be read in international languages by an examiner at any International Patent Office on his computer screen enabled by two important features of TKDL: Relevant information technology tools and a novel classification system - Traditional Knowledge Resource Classification (TKRC). Today, through TKDL, India is capable of protecting about 0.226 million medicinal formulations similar to those of Neem and Turmeric. On an average, it takes five to seven years for opposing a granted patent at international level which may cost 0.2-0.6 million US\$. One could only imagine the cost of protecting 0.226 million medicinal formulations in the absence of TKDL!

India has already signed TKDL Access Agreement with (i) European Patent Office (Feb 2009), (ii) United State Patent & Trademark Office (Nov 2009), (iii) Canadian Intellectual Property Office (Sep 2010), (iv) German Patent Office (Oct 2009), (v) United Kingdom Patent & Trademark Office (Feb 2010) and (vi) Intellectual Property, Australia (Jan 2011). In-principle Agreement has been reached with the Japan Patent Office while negotiations are under way to conclude the Access Agreement with the Intellectual Property Office of New Zealand.

These unique international Access Agreements are expected to have long-term implications on the protection of both traditional knowledge and global intellectual property systems in view of the fact that in the past, patents have been granted at various patent offices on the use of over 200 medicinal plants due to the lack of access to the documented knowledge in public domain. Also, 40-50 patent applications based on Indian traditional knowledge are awaiting grant of patent at any point of time. Significant impact has already been realized at EPO during the last one year after the signing of the Access Agreement. Beginning July 2009, TKDL team has so far identified about 230 patent applications at EPO which concern Indian systems of medicine and filed third party TKDL evidences at EPO. In two such cases, EPO has already set aside its earlier intention to grant patents after it received TKDL evidence. In one case, the applicant modified its earlier claims. In other thirty three cases, the applicants themselves decided to withdraw their four-to-five year old applications on being confronted with TKDL evidence which is a tacit admission of bio-piracy by applicants themselves. It is expected that in the balance 200 plus cases, either EPO would reject these applications or applicants themselves would withdraw their wrong claims/patent applications in coming months. In addition, TKDL evidences against misappropriation in 400 more cases have been submitted at other International Patent offices. Similar outcomes are also expected at the other International Patent Offices.

More than 40 countries from different regions of the world would participate in this international event, including 35 developing countries (17 from Asia Pacific region, 4 African, 4 Latin American, 3 Arabian, 4 from Division for certain countries in Europe and Asia such as Bulgaria and Russian federation and 3 Least Developed Countries- Mali, Uganda and Zambia) and 7 developed countries who are signatories of TKDL Access Agreement, viz., European Union, United States of America, Germany, United Kingdom, Canada, Australia and Japan.