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## CURRENT AFFAIRS

## PATENTS

## India begins long fight to protect its patents

*Union government has presented evidence worldwide that it owned knowledge in 600+ cases*

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The next time your grandmother offers you a tip to cure an ailment or to spruce up your cuisine, using her traditional knowledge, the chances are that her tip may have already been stolen and patented at an international patent organisation. A western company might already be selling that tip at an exorbitant price.

Some estimates in India say western companies are booking 2,000 wrong patents every year on homemade Indian remedies or on the Indian system of medicine.

Experts believe since most of India's traditional knowledge is in Sanskrit, Hindi, Persian, Arabic, Urdu, Tamil, etc., piracy becomes easy, since the knowledge remains inaccessible to international patent offices.

Already, India had to sweat hard to convince international bodies to revoke a patent on the healing properties of turmeric and the anti-fungal properties of neem, which an American company booked and touted as major discoveries.

The Indian government is now collaborating with the World Intellectual Property Organisation (WIPO), a specialised agency at the United Nations (UN), to protect its traditional knowledge. WIPO Director General Francis Gurry, who was here to attend an international conference, believed that this development was a concrete and potentially answer to protect the patents and the knowledge of poorer countries.

Gurry said developing countries were mostly the victims of big companies indulging in bio-piracy and misappropriation of traditional knowledge.



Even though such issues are being dealt with at various multilateral forums, no global framework for protecting traditional knowledge has been established.

Misappropriation of traditional knowledge and bio-piracy of genetic resources are issues of great concern for developing countries.

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). Similarly, the cancellation of Monsanto Soybean patent in July 2007 at the European Patent Office (EPO) took 13 years of legal battle.

India has now set up a **Traditional Knowledge Digital Library (TKDL)** to protect knowledge and prevent grant of wrong patents. A collaborative project between the ministry of science and technology and the ministry of health and family welfare, the **TKDL** enables cancellation or withdrawal of wrong patent applications concerning India's traditional knowledge at zero cost in a few weeks.

In sharp contrast, in the absence of **TKDL**, it took 10 years (1995-2005) to get the neem patent invalidated for antifungal properties at the EPO.

The **TKDL** has created a unique mechanism for overcoming language and format barriers by scientifically converting and structuring the available information contents of 34 million pages of ancient texts into five international languages, English, Japanese, French, German and Spanish.

Through two features on **TKDL**, an examiner can read a Sanskrit verse in international languages at any International Patent Office on his computer screen.

So far, it has helped India protect 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 the international level.

This could cost anywhere between \$200,000 and \$600,000 million. The cost of protecting 0.226 million medicinal formulations in the absence of the **TKDL** is, therefore, beyond India's means.

India has signed access agreements with (i) the European Patent Office (February 2009), (ii) the United State Patent & Trademark Office (November 2009), (iii) the Canadian Intellectual Property Office (September 2010), (iv) the German Patent Office (October 2009), (v) the United Kingdom Patent & Trademark Office (February 2010) and (vi) Intellectual Property, Australia (January 2011). In principle, an agreement has been reached with the Japan Patent Office while negotiations are under way to conclude an Access Agreement with the Intellectual Property Office of New Zealand.

Indian scientists have identified 230 patent applications at the European Patent Office pirated from India's traditional knowledge. In two such cases, the EPO has set aside its earlier intention to grant patents after it received **TKDL** evidence.

In one case, the applicant modified earlier claims. In thirty-three other cases, the applicants decided to withdraw applications made four-to-five year ago. These responses to **TKDL** are a tacit admission of bio-piracy by the applicants.

It is expected that in the other 200+ cases, either the EPO would reject the applications or the applicants would withdraw wrong claims and wrong patent applications in the coming months.

In addition, **TKDL** evidence against misappropriation in 400 more cases has been submitted at other international patent offices. Withdrawal of false claims is also expected at these offices.

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