



Intellectual Property advocacy in the fields of:

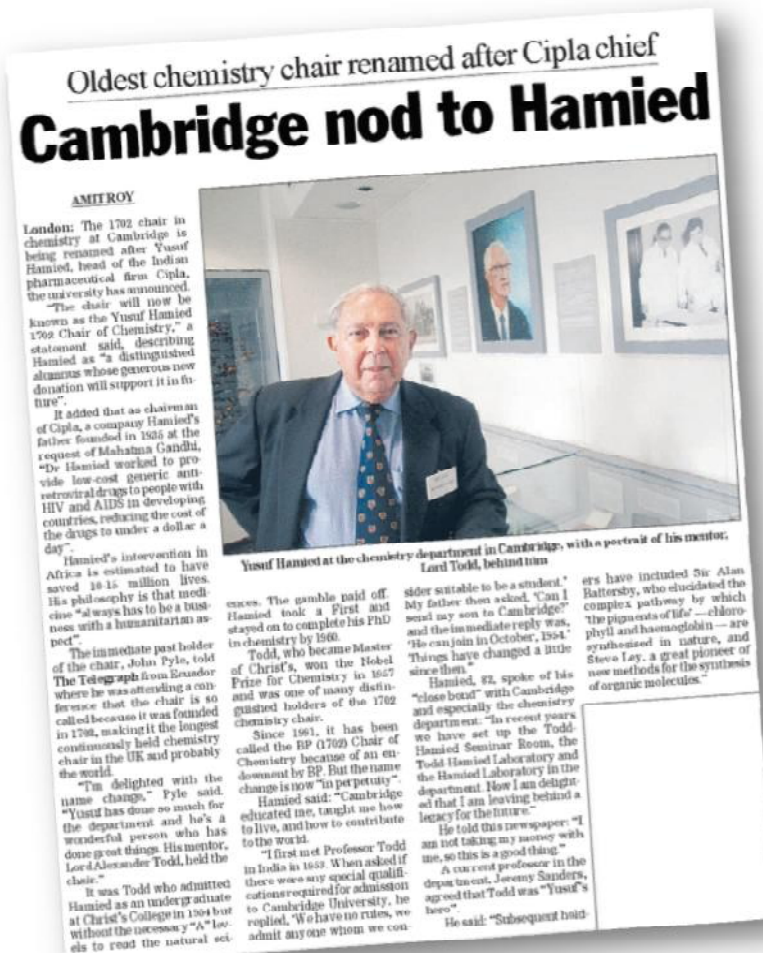
- IP Infrastructure
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## Editorial...

Approaching 2020, India is proud to have achieved international status in our IP (Intellectual Property) Administration. IP India (Intellectual Property) and the Office of the Controller General of Patents, Designs & Trademarks (CGPDTM) has scaled new heights in global standards of transparency and competency especially through Digital/ Online operations. Having reached here, it is worthwhile to look back at the journey of last 50 years. **(Continued on page 2) ↑**

### We are proud of you Dr. Yusuf Hamied



**Oldest chemistry chair renamed after Cipla chief**  
**Cambridge nod to Hamied**

**AMITROY**

London: The 1702 chair in chemistry at Cambridge is being renamed after Yusuf Hamied, head of the Indian pharmaceutical firm Cipla, the university has announced.

"The chair will now be known as the Yusuf Hamied 1702 Chair of Chemistry," a statement said, describing Hamied as "a distinguished alumnus whose generous new donation will support it in future".

It added that as chairman of Cipla, a company Hamied's father founded in 1935 at the request of Mahatma Gandhi, "Dr Hamied worked to provide low-cost generic anti-retroviral drugs to people with HIV and AIDS in developing countries, reducing the cost of the drugs to under a dollar a day".

Hamied's intervention in Africa is estimated to have saved 10.15 million lives. His philosophy is that medicine "always has to be a business with a humanitarian aspect".

The immediate past holder of the chair, John Pyle, told The Telegraph from Ecuador where he was attending a conference that the chair is so called because it was founded in 1702, making it the longest continuously held chemistry chair in the UK and probably the world.

"I'm delighted with the name change," Pyle said. "Yusuf has done so much for the department and he's a wonderful person who has done great things. His mentor, Lord Alexander Todd, held the chair."

It was Todd who admitted Hamied as an undergraduate at Christ's College in 1964 but without the necessary "A" levels to read the natural sciences. The gamble paid off. Hamied took a First and stayed on to complete his PhD in chemistry by 1966.

Todd, who became Master of Christ's, won the Nobel Prize for Chemistry in 1967 and was one of many distinguished holders of the 1702 chemistry chair.

Since 1961, it has been called the BP (1702) Chair of Chemistry because of an endorsement by BP. But the name change is now "in perpetuity".

Hamied said: "Cambridge educated me, taught me how to live, and how to contribute to the world."

"I first met Professor Todd in India in 1963. When asked if there were any special qualifications required for admission to Cambridge University, he replied, 'We have no rules, we admit anyone whom we consider suitable to be a student.' My father then asked, 'Can I send my son to Cambridge?' and the immediate reply was, 'He can join in October, 1964.' Things have changed a little since then."

Hamied, 72, spoke of his "close bond" with Cambridge and especially the chemistry department. "In recent years we have set up the Todd-Hamied Seminar Room, the Todd-Hamied Laboratory and the Hamied Laboratory in the department. How I am delighted that I am leaving behind a legacy for the future."

He told this newspaper: "I am not taking my money with me, so this is a good thing."

A current professor in the department, Jeremy Sanders, agreed that Todd was "Yusuf's hero."

He said: "Subsequent hold-

ers have included Sir Alan Battersby, who elucidated the complex pathway by which the pigments of the chlorophyll and haemoglobin — are synthesized in nature, and Steve Ley, a great pioneer of new methods for the synthesis of organic molecules."

**Yusuf Hamied at the chemistry department in Cambridge, with a portrait of his mentor, Lord Todd, behind him**

**CONGRATULATIONS TO DR. YUSUF HAMIED!**

(Continued from page 1)

Much water has flown from the days of Ayyangar Committee Report of 1959. The Patents Amendment Bill tabled in Parliament lapsed more than once. Eventually two successive Parliamentary Select Committees – one from Rajyasabha and another from Loksabha held public hearings. It was on August 13, 1968, that Loksabha referred the pending Patents Amendment Bill to a Joint Select Committee, headed by Dr. Sushila Nayyar. The proposed Bill sought to amend the law relating to Patents. This Joint Select Committee had many distinguished Parliamentarians, such as Late Shri. A. B. Bajpai (ex-Prime Minister), Late Shri. C. Achutha Menon (ex-CM of Kerala) and many other luminaries. IDMA (Indian Drug Manufacturers Association) took a lead in strong representations to get the Indian Patent Act amended in line with recommendations of Ayyangar Committee. Many Pharma Industry stalwarts appeared in person before the Select-Committee. Shri. G. P. Nair was the President of IDMA and Dr. Abraham Patani was the Secretary. When the IDMA delegation vociferously suggested for removal of 'product patent' protection for Pharma and Chemicals, Shri. Achutha Menon specifically asked *"Mr. Nair! You say research in Indian Pharma Industry is not strong enough to introduce new products or to claim new product patents. You say that Pharma products are all protected by MNCs in India and hence you cannot manufacture them. If we agree to your demand to amend the Patent law, excluding protection to Product Patents in Pharma and Chemicals, how much time do you need to scale up your standards to that of MNCs? When will Indian Companies be able to develop R&D capabilities to meet global standards. What is the time period for which you are asking for this amendment?"*. Mr. G. P. Nair had not come prepared to answer this query, neither Dr. Patani. However, to save the cause, Mr. G. P. Nair (with a nod from Dr. Patani) said *"25 years Sir!"*. The meeting went on well and in the next session of the Parliament the Patents Amendment Bill (an act to amend and consolidate the law relating to Patents) was passed and historically became The Patents Act, 1970 (19<sup>th</sup> Sept, 1970).

However, the provisions did not come into effect, since the drafting of the related Patent Rules and "placing the Rules on the table of the House/ Parliament" (this was compulsory those days) for a month as a formality did not happen and was not happening. IDMA located at Mumbai did not have the wirepulling ability to make this happen after successfully pursuing the passing of the Act. The pursuit of the Rules (an Executive function) required better access and influence in the corridors of the Ministries in Delhi. After due deliberations, the IDMA decided to request Shri. Bhai Mohan Singh, the then CMD of Ranbaxy Labs and Consul. San Marino (also ex-Treasurer SGPC) to take over the Presidentship of IDMA, which

he did. As desired and expected, the Patent Rules, 1972 were placed in Parliament. On 30 days, not only the Patent Rules, 1972 became effective, but also making the Patent Law, 1970 came into effect in 1972. The entire exercise (against severe MNC resistance and counter moves in the corridors of Delhi) was a "Bhagiratha Prayatna" (Herculean Task). Dr. Vedaraman, then Controller General of Patents and later Advisor to IDMA, was very helpful as friend, philosopher and guide. Later, Mr. B. K. Kealya, who retired from the Ministry, founded National Working Group on Patents along with many other stalwarts. National working group was immense help to IDMA and Indian sector in later years, when the 1970 patent law came up for amendments post WTO and TRIPs.

The Patent Act, 1970 & Patents Rules, 1972 turned out to be a boon to Indian Pharma Industry and Pharma research through reverse engineering. While MNC companies like Bristol Myers and American Home products (and others like IBM) quit India in protest, Indian Pharma companies like Ranbaxy and Cipla came forward to reap rich rewards through Reverse Engineering. 'Calmpose', the branded version of Diazepam of Ranbaxy became an instant hit in Indian market. (Diazepam was still under Patent worldwide). Dr. Yusuf Hamied took over the mantle of Cipla from his illustrious father and founder of Cipla, Dr. K. A. Hamied (classmate and colleague of Dr. Zakir Hussain and close follower of Mahatma Gandhi in early days), around these times. In his visionary style, Dr. Yusuf Hamied tied up for research with Dr. A. V. Rama Rao of NCL (National Chemical Laboratory, Pune) and came up with breakthrough results. Vinca alkaloids (Vincristine, Vinblastine, etc) were the early products. Another product from Dr. Rama Rao, which got commercialized was the Bulk drug, (API), Diazepam. There were many more. The Pharma research group at CDRI, under Dr. Nitya Anand and many technopreneurs took up the "reverse engineering" research with amazing results. The growth (and later sad demise) of IDPL (Indian Drug and Pharmaceuticals Ltd) under Dr. Behl coincided with this phase boosting bulk drug (API) production in India. Technically qualified IDPL researchers and production chemists such as Dr. Anji Reddy (and many others from Hyderabad & Andhra) came out with practical knowledge in API production and founded their own Pharma API & Formulation units. I have been calling this a 'Technology salting-out' from the "Mother liquor" of IDPL. In the meantime, heavy political interference, corruption and nepotism (many Ministries and Secretaries in 80's used to have their drivers and domestic servants in the payroll of IDPL, HAL and others) led IDPL to sick state and sadly to ICU.

However, Indian private pharma enterprise flourished post 1970. The 'Hathi Committee Report', 1978 and 1987 Pharma

(Drug) Policies provided impetus and catalytic boost to domestic pharma growth. Ratio parameters (Compulsory bulk drug to formulation ratio of 1:5 for MNCs and 1:10 for Indian Companies), Import substitution incentives (through export or deemed exports), R&D incentives (150% to 200% tax rebate) helped and motivated entrepreneurs. A few of these were subsequently withdrawn or got restricted mainly due to misuse or abuse. However, overall effect was highly positive. It was in these industry friendly times of early 80's and 90's that Dr. Reddy's, Aurobindo, Sunpharma, Glenmark, Torrent, Strides and many others were born with instant growth formula (may be with teething troubles). The parent Cadila at Ahmedabad was, however, a beneficiary of the Pharma boost post 1970 Patent Law.

25 years from the 1970 Patent Law amendments, coincidentally, WTO and TRIPs were born in 1995. Having ratified, India had to initiate amendments to Patent Law, 1970 to reintroduce Product Patents for all fields of technologies with uniform term of patent, as 20 years. Many more TRIPs non-compliant provisions such as 'License of Right' needed to be omitted. To comply with "Transition provisions", India issued 1<sup>st</sup> Patent Amendment Notification on 1<sup>st</sup> January 1995 and introduced corresponding Bill in Parliament. The Bill fell through due to united opposition (mainly BJP). US and Europe took India to DSB (Dispute Settlement Body) of WTO which ruled against India. In 1998, the same Bill was passed with retrospective effect (BJP had come to power by then). Two subsequent amendments, 2<sup>nd</sup> Amendment on 20<sup>th</sup> May 2002 and 3<sup>rd</sup> amendment effective 1<sup>st</sup> January 2005, (along with corresponding amendments to Rules) brought India on par with TRIPs and Paris Convention and PCT (Patent Cooperation Treaty).

In early days, there was immense pressure on Patent Office administration to go slow on grants of patents. Patent and Trademark administration remained extremely corrupt till 2009 when DIPP initiated a "clean up" on war-footing. Mr. P. H. Kurian IAS was appointed the Controller General. In spite of facing severe backlash and threats, he undertook the mission clean-up and system implementation. Incidentally, in a short span (his tenure was cut-short over a tussle with the then Secretary, DIPP), he issued the first and only Compulsory License. Chaitanya Prasad, was his successor. The Joint Secretary, DIPP, Mr. Rajiv Agarwal IAS, held the office in interim period (continuing the process of modernization) before the current Controller General, Mr. Om Prakash Gupta took over. The modernisation and upgradation program initiated in 1998 and pursued aggressively ever since, received and continues to receive real impetus under the current Controller General, Mr. O. P. Gupta. India commenced working closely with WIPO

post 2000. Indian Patent Office was recognized as a ISA, IPEA (International Searching and International Preliminary Examining Authorities) which modern world-class facilities were set up adjacent to Delhi Patent Office.

The amendment to Rules (2016), effective 16<sup>th</sup> May 2016, introduced Expedited Examination, special treatment to 'Start-ups' (infrastructure and expedited examination) and the recruitment drive for Examiners were the early steps. While the recruitment of examiners and intensive training to them is still going on, there has been many laudable initiatives introduced in last few months. Some of them are as follows.

- All proceedings, including filing of patents, trademarks and other IP applications have all been made online, compulsory for agents and attorneys. All payments are also made online, eliminating major malpractices earlier. Computerisation and online publication in Official IP India website is now brought in par with global standards.
- Examination of all applications are now being handled by all offices/ officers/ examiners irrespective of the zone of origin of application. This has not only expedited examinations even for ordinary application but also reduced pendency and improved uniformity in examination practices.
- The periodic meetings with stakeholders to take/ receive feedback (and not complaints) is one of the latest reforms introduced.
- Concluding hearings in Patent examination (post FER & response) have now been made through video conferencing. This has helped the patent agents to travel less and the Patent Office to grant hearings from any one of the four cities irrespective of the location of the applicant/ agent.
- This facility has now been extended to Copyrights also.
- The latest in these chains of reforms is the invitation for expression of interest for introducing Artificial Intelligence, blockchain, IOT and other latest technologies.

We compliment the Controller General of Patents, Designs & Trademarks (CGPDTM) for these 'ahead of our times' reforms. We hope to see India emerging in the forefront of global communities in the field of IP Administration in the near future.

Post amendment of Rules in 2016, Indian Search Authority and Indian Preliminary Examination Authority started receiving large number of PCT applications, which are being searched and examined exemplarily as per global standards.

We wish the IPAB (Intellectual Property Appellate Board) is also revived in the field of patent appeals in the near future by the DOPP.

More on these in later editions.

## **A COMPUTER-GENERATED GRAPHIC DESIGN CAN BE PROTECTED AS A RIGHT WHEN IT HAS HIGH CREATIVITY**

**Among the number of trials filed for computer-generated graphic designs, which are used for smart devices, such as smart phones, low creativity is the reason to dismiss the trials in most of the cases.**

According to the Korea Intellectual Property Trial and Appeal Board (KIPTAB), 64 were processed (terminated) of 70 computer-regenerated graphic design-related trials which were filed over the last five years.

Of 42 dismissed trials, 41 cases were dismissed based on the decision that the computer-generated graphic designs could be created by one employed in the filed to which the designs belonged, and 1 case was dismissed since it was similar to a previous design.

However, 15 cases were returned to the examination bureau since the creativity of the designs were acknowledged.

A trial judge of the design board of KIPTAB emphasized, "Although the change speed of computer-generated graphic designs is fast and tends to be gradually simplified for the users' convenience, it is important to make an effort to enhance the creativity by advancing the graphical user interface (GUI) method on a display screen of a smart device, to be registered as a computer-generated graphic design."

(Kim, Hong & Associates, Quarterly Issue no.85, dated October 1, 2018)

## **INNOVATION BEYOND POVERTY**

### **USING SAND CARROM BOARD AND BOTTLE CAPS**

