

Intellectual Property advocacy in the fields of:

- IP Infrastructure
- IP Policy
- Patent Law
- Copyright
- IP Valuation
- Technology Transfer
- Licensing
- Collaborations
- M & A
- Innovation Research
- Data Management
- Balance for Rights & Obligations



NATIONAL INTELLECTUAL PROPERTY AWARDS – 2019

LAST DATE EXTENDED TO 15.03.2019

Click here for more details: <http://www.ipindia.nic.in/newsdetail.htm?494/>

NEW INCENTIVE SCHEME FOR RESEARCH SCHOLARS BY THE GOVERNMENT OF INDIA

New govt Incentive Scheme: JRF/SRF To Get Rs 1 Lakh For Patent – Rs 50000 For Publishing Paper

If Murmu Committee Recommendation are accepted then DST – Department of Science and Technology will grant around Rs 50,000/- to JRF / SRF upon publishing a research paper in an international journal. A one-time grant of Rs 20,000/- to research scholars holding fellowship if they publish a research paper in any reputed national journal is also proposed. Moreover, if you are successful in obtaining a patent either nationally or internationally you will be entitled to a grant of Rs 1 Lakh.



Read more:

https://www.biotechnika.org/2019/02/jrf-srf-to-get-rs-1-lakh-for-patent-rs-50000-for-publishing-paper/?fbclid=IwAR2CgqsyH9S28NYjq1u4blc9hJRhmjHVhlyvVT8bBtT7_JqgHNWn13oc39s8

THE DEAF GIRL FIGHTING TO BE HEARD ON A LIFE-SAVING TB DRUG

Nandita Venkatesan, a 29-year-old TB survivor from Mumbai, has challenged an attempt by Janssen, to extend its patent on bedaquiline (an important drug for those with drug-resistant TB). The patent is set to expire in 2023, and the company wants an extension till 2027.

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Nandita Venkatesan, a 29-year-old TB survivor from Mumbai, gives new meaning to the proverbial David and Goliath story. She has challenged an attempt by Janssen, a sister concern of the pharmaceuticals giant Johnson & Johnson, to extend its patent on bedaquiline, an important drug for those with drug-resistant TB. The patent is set to expire in 2023, and the company wants an extension till 2027.

Venkatesan, and 28-year-old Phumeza Tisiye of South Africa, both lost their hearing as they were prescribed an older anti-TB drug, kanamycin which had side effects. Their challenge to Janssen's application in the Indian Patent Office might be the last hope for thousands suffering from multi-drug-resistant TB to get affordable bedaquiline.

What chance do two young women stand against the might of a pharma giant? "They may have all the resources, but we have our own powerful testimonies. They might be an eye-opener for the people examining the patent. No one should lose their hearing and suffer like us because of lack of access to bedaquiline. The suffering is not just mental and emo-

The deaf girl fighting to be heard on a life-saving TB drug

Unsafe TB drugs destroyed Nandita Venkatesan's hearing. Now, the young woman is challenging a patent extension on a drug that works

life-saving drug," says Nandita, who was stuck with kanamycin because bedaquiline wasn't available in India then.

When contacted, a J&J spokesperson said the company was committed to ensuring that bedaquiline reaches as many patients as possible. It also clarified that the application they have filed is a formulation patent which "would not prevent generic manufacturers from developing the active pharmaceutical ingredient in their own formulations after July 2023". But Nandita opposes the patent extension beyond 2023. "No one else should suffer like me or Phumeza. I have seen how life-al-

tering the toxic old drugs like kanamycin and capreomycin are. Not only did I lose 90% of hearing, I also suffered severe kidney malfunctioning, skin rashes, and other known and long-lasting side effects. Bedaquiline can replace these. I am aware of the cardiotoxicity of bedaquiline. But even the director-general of Indian Council of Medical Research has gone on record to

say that the benefits outweigh the risks and that TB patients on it have half the mortality of those not on it," says Nandita. Once it is off-patent, generic manufacturers in India could bring the price down to just \$16 per month or less than \$100 for six months. Today, the drug costs several thousand dollars for one person's treatment, and even at reduced cost for low and middle-income countries like South Africa, it's \$40 for a six-month regimen. Often the treatment lasts much longer. In India, the government provides the drug free under a donation programme funded by J&J with USAID. However, the programme expires next month. Moreover, it covers only 10,000 courses though the number of patients who need it is several times more. The programme is also plagued by shortages and long waits. "After next month, one is not sure the government can afford to provide the drug even at South African prices," says Nandita. Nandita, who woke up deaf from an abortion nap just two days after her 24th birthday, had told the UN General Assembly on TB earlier this year: "I cannot hear you today. But I will make sure you hear me, loud and clear!"



“I cannot hear you today. But I'll make sure you hear me, loud and clear”

Read more at: http://timesofindia.indiatimes.com/articleshow/68028318.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

INDIA JUMPS 8 PLACES TO 36TH ON INTERNATIONAL IP INDEX

India's eight-point jump in 2019 from 44th position in 2018 is the highest increase among 50 nations mapped by the index.

India's overall score has also increased substantially from 30.07% (12.03 out of 40) in the previous edition to 36.04% (16.22 out of 45) in the present edition. The index ranks countries based on 45 indicators that are critical to an innovation-led economy supported by robust patent, trademark, copyright, and trade secrets protection. The US, the UK, Sweden, France and Germany remained the top five economies on the intellectual property index in 2019 retaining their spots from the last year. "The improvement reflects important reforms implemented by Indian policy-makers towards building and sustaining an innovation ecosystem for domestic entrepreneurs and foreign investors alike," the release said.

Major Gains

36.04%: India's overall score in 2019, up substantially from 30.07% in the previous edition

2nd year in a row, India's score represents the largest gain by any country on the index



The Hurdles

Barriers to licensing and technology transfer; limited framework for the protection of biopharmaceutical IP rights; patentability requirements outside international standards

Top 5

- US
- UK
- Sweden
- France
- Germany

A new innovation era: India jumps eight places among 50 countries in global IP index

Patrick Kilbride



If the new year is anything to go by, India is already signalling its position on innovation and creativity. The Supreme Court kick-started 2019 by upholding Monsanto's patent on genetically modified cottonseeds, suggesting that patent rights will not be hostage to political discretion. Additionally, the Indian government clarified that patented drugs will be protected from price controls for a period of five years, and also proposed definitive measures to criminalise film piracy.

This growing pro-innovation narrative is very welcome and not entirely surprising. Over time, the government has gradually invested in a series of incremental initiatives to improve the country's innovation ecosystem guided by the vision of the 2016 National Intellectual Property Rights (IPR) Policy.

Two days ago, the US Chamber of Commerce's Global Innovation Policy Centre released its seventh annual IP Index, 'Inspiring Tomorrow'. The Index analyses the IP climate in 50 countries, covering over 90% of global gross domestic product. It ranks economies

based on 45 unique indicators that benchmark activity critical to building an innovation-led economy supported by robust patent, trademark, copyright, and trade secrets protection. It presents a data-driven view of global competitiveness based on the business community's investment criteria.

The 2019 IP Index showed that India ranked 36th of 50 economies—eight places up from 44th place last year—reflecting the importance that India's policymakers are placing on building an innovation ecosystem. For the second year in a row, India's score represents the largest gain of any country measured on the Index, re-emerging as the top global improver—but this time with a big leap.

The Index findings highlight the positive spillovers from India's broader economic reforms, captured by other global indices: The 2018 World

The leap from frugal to transformative innovation requires a system of property rights that enables significant, risky, long-term investments

Bank Doing Business Report ranked India as the "top global improver for a second consecutive year," and India registered "the largest gain of any country in the G20" on the 2018 WEF Global Competitiveness Report.



The global economy benefits when the world's fastest growing major economy thrives.

The increase in India's score and rank can be attributed to reforms that better align India's IP environment with the international IP system, including its accession to the WIPO Internet Treaties, steps to initiate agreements to expedite patent examination with international patent offices, a dedicated set of IP incentives for small business, and administrative reforms to address the patent backlog.

India also performs well on

some of the Index's new indicators. On two of these—tax incentives for creation of IP assets, and targeted IP incentives for small business—India scores full points. Targeted incentives for small business—including

expedited review for patent filings, reduced filing fees, and technical assistance—make India a world leader with Brazil.

However, to maintain this momentum, much work remains to be done. Frugal innovation is a great starting point to build a culture of creativity and efficiency. But the leap from frugal to transformative innovation requires a system of property rights that enables significant, risky, long-term investments.

Indian policymakers will need to streamline the country's overall IP framework to better

support transformative innovation and inspire creativity. For instance, innovators continue to be discouraged by superfluous patentability requirements, lengthy pre-grant opposition procedures, and lack of regulatory data protection. If a patent is granted, enforcement of its full term of 20 years remains a challenge—either through the looming possibility of price controls on patented products, or the threat of compulsory licenses. Online piracy is rampant, and the lack of enforcement capacity to seize counterfeit goods hurts business. A coherent trade secrets law is absent.

If India is to compete in the Fourth Industrial Revolution, it will need to look at today's IPR as the addition and subtraction of the knowledge economy. The industrial assets of tomorrow's economy are intangible: know-how, information, and data. Making a market for these assets will be far more complicated than simply protecting IP. An economy needs to walk before it can run, and all countries need to master IPR to prepare for tomorrow's intangible economy. India has its work cut out, and the 'josh' is high.

The writer is senior vice president of the Global Innovation Policy Centre at the US Chamber of Commerce

Click here for more details:

<https://economictimes.indiatimes.com/news/economy/indicators/india-jumps-8-places-to-36th-on-international-ip-index/articleshow/67884700.cms>

<https://timesofindia.indiatimes.com/business/india-business/india-jumps-8-places-to-36th-on-international-ip-index/articleshow/67884428.cms>

PATENT TROLLS – PART I

Patent trolls or “non-practicing entities (NPEs)” acquire patents but do not make, use or sell the patented invention. They are also known as Patent Assertion Entities (PAEs). Their motive is to sue other companies or individuals that are making, using or selling the invention.

Here’s a consolidated list of cases on Patent troll. Patent trolls will be discussed in detail in our next issue of Ciprom (Ciprom Newsletter - April 2019)

Patent troll case: **Eolas v. Microsoft**

- \$521 million judgement against Microsoft
- Eolas settled with Microsoft in 2007

Patent troll case: **MercExchange v. eBay**

- MercExchange sues eBay for infringing US patent 5845265.
- MercExchange settles with eBay in 2008 for undisclosed sum in exchange for patents and technology

Patent troll case: **Network Appliance v. BlueArc**

- Network Appliance acquires patents from bankrupt Auspex and asserts them against BlueArc
- BlueArc successfully defends on grounds of non-infringement and invalidity

Patent troll case: **University of Rochester v. G.D.Searle & Co., Inc.**

- Rochester obtains patent 5837479 for a method of selectively inhibiting Cox-2 and sues a number of drug companies.
- Rochester loses

Other Patent troll case:

- Alice Corp v. CLS Bank
- TC Heartland v. Kraft Foods

Most prolific patent litigants:

- Shipping and Transit LLC
- Sportbrain Holdings LLC
- Uniloc USA, Inc

PharmaPatent troll case:

- Bristol Myers Squibb v. BDR Pharma (Dasatinib)
- Novartis v. Biocon (Vildagliptin)

Patent troll case in India:

- Spice Mobiles Ltd. and M/s. Samsung India Electronics Pvt. Ltd. v. Shri Somasundaram Ramkumar



NEWS SNIPPETS

Secret Sale of Patent: A Prior Art

On January 22, 2019, in the recent ruling of Helsinn Healthcare S.A. v. TevaPharmaceuticals USA, Inc., No. 17-1229, the US Supreme court held that inventors lose patent protection for inventions that they had sold or offered to sell more than a year before submitting the patent application - even if those sales were confidential and did not publicize the invention's details.

More at:

https://www.globalpatentfiling.com/blog/secret-sale-patent-prior-art?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-Original

Copyright of Art Work Irrelevant for Proving Its Use as Trademark: Delhi HC

The Delhi High Court has held that copyright registration of an art work is irrelevant for the purpose of ascertaining its use as a trademark. The order was passed by Justice Suresh Kumar Kait on a petition challenging an order passed by the Intellectual Property Appellate Board (IPAB)

More at:

<https://www.livelaw.in/news-updates/copyright-art-work-irrelevant-use-trademark-delhi-hc-142445>

Coca-Cola faces NPE patent suit

Coca-Cola is at the centre of a patent infringement suit filed by Texas-based company Virtual Immersion Technologies (VIT). The complaint, filed Friday, March 1 at the US District Court for the District of Delaware, alleged that Coca-Cola's virtual reality systems infringe a patent owned by VIT (US number 6,409,599).

More at:

https://www.worldipreview.com/news/coca-cola-faces-npe-patent-suit-17600?utm_source=World+IP+Review&utm_campaign=9ac5a9a55b-WIPR_Digital_Newsletter_02112018_COPY_01&utm_medium=email&utm_term=0_d76dcadc01-9ac5a9a55b-27250961&fbclid=IwAR3b49oQa0ZMct9v4mQcUPmkpZne_4zTD4p98VJYmTSbt04s0be3-2PpVzM#.XH6zG0UFxA8.facebook

McDonald's loses its trademark in EU; Burger King seizes opening

After McDonald's lost its trademark for Big Mac in the European Union, Burger King in Sweden revamped its menu in a snarky hat-tip to the rival fast-food chain. The European Union Intellectual Property Office decided in January that McDonald's hadn't proved "genuine use" of the Big Mac trademark in the EU. Supermac's rejoiced, painting the case as an example of trademark bullying

More at:

<https://www.columbian.com/news/2019/feb/17/mcdonalds-loses-its-trademark-in-eu-burger-king-seizes-opening/>



Dilip G Shah

OBITUARY

IPA Founder/ Pharma Veteran DG Shah

Doyen of Indian pharmaceutical industry and founder of the Indian Pharmaceutical Alliance (IPA), Dilip Girdharlal Shah passed away on 22nd February 2019. He was 77. One of the senior-most pharmaceutical professionals in the country.