

Intellectual Property advocacy in the fields of:

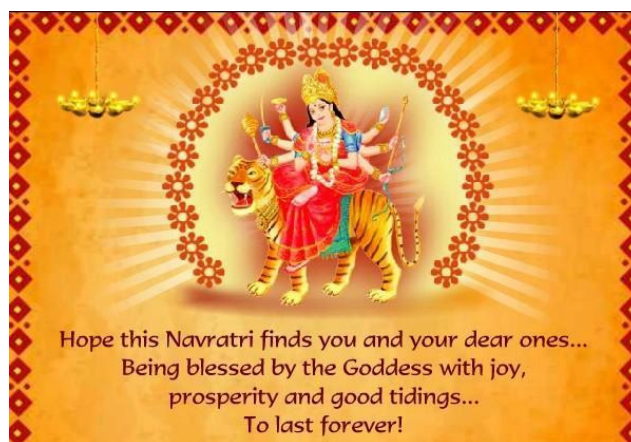
- IP Infrastructure
- IP Valuation
- M & A
- IP Policy
- Technology Transfer
- Innovation Research
- Patent Law
- Licensing
- Data Management
- Copyright
- Collaborations
- Balance for Rights & Obligations

Private Circulation Only

## EDITORIAL

A paradox no parody but yet a comedy of errors this month. The IPAB (Intellectual Property Appellate Board) was set up as required under the Trade Marks Act, 1999 (as amended) and under the Patens Act, 1970 and rules thereunder (as amended). After being in ICU (almost defunct, dormant and non-functional for a couple of years) has died a natural or apparently unnatural death this month. The IPAB as per its constitution under the Trade Marks Act, 1999 and also the Patens Act, 1970 is supposed to have a Chairman, a Vice Chairman (Judicial Member), Technical Members (for TM, Patent and Designs, Plant Varieties, Copyright and others. Headquarters of the IPAB administration is at Chennai (Bench at Delhi), headed by the Registrar, Deputy Registrar and a full-fledged office staffing many employees. Over the years, the Technical members and Vice Chairman had retired one after the other. This month, the acting (part-time) Chairman Retd. Judge Manmohan Singh (more on this later) also retired leaving the IPAB an orphan or a near deceased entity. Many a time, the matter of a non-functional IPAB had come up in Delhi and Mumbai High Courts, and orders were issued by the Courts, including Supreme Court of India to make the IPAB functional by appointing a Chairman and Technical Member. For reasons unknown, IPAB has been allowed to become completely non-functional by the powers that be, without offering any explanation or without taking any remedial action. If not for clearing thousands of appeals pending at the IPAB, at least for saving India's global reputation the Government need to act and put the IPAB in operation at the earliest.

Of course, there are many more paradoxes in India's "Pandora's Box". Following the "The Protection and Utilisation of Public Funded Intellectual Property (PFIP) Bill, 2008" and the standing committee repoty of June, 2010, the Government of India has come up with a draft proposed "Model Guidelines On Implementation Of IPR Policy In Academic Institution". In the meantime, AICTE (All India Council for Technical Education) under Human Resource Development (HRD) Ministry has published "National Innovation and Start Up policy for Students and Faculty of Higher Education Institutions - A Guiding Framework for Higher Education Institutes" (more on this later), terms of which are in contractions with proposed guidelines. As we hear the latest, the AICTE has referred the differing benefit sharing terms to inventors, (one is 30:70 and the other is 50:50 between inventor and institute) to the Government of India.



In the meantime, a press-note has been issued offering reduction in patent application fee to MSMEs and others. This announcement has created confusion - confounded "situation", as no notification or amendments of the Rules have been forthcoming. Patent Applicant are at a loss because the IT systems does not accept the revised fees. The only silver lining, in this cloud of uncertainties in the amendments to Patent Rules giving accession of expedited examination to women inventors/applicant and to host of others. \*\*\*

### IP Sharing in Academic Institutes

The draft document of the "Model Guidelines On Implementation Of IPR Policy In Academic Institution" drafted by Cell for IPR Promotion & Management (CIPAM) under Department of Promotion of Industry and Internal Trade was published on 9th September, 2019. The draft Model Guidelines are based on the "Guidelines on Developing Intellectual Property Policy for Universities and R&D Organizations, WIPO, Geneva" and other existing intellectual property policies of several universities, published on the WIPO website.

On the other hand, the AICTE (All India Council for Technical Education) under Human Resource Development (HRD) Ministry has published "National Innovation and Start Up policy for Students and Faculty of Higher Education Institutions - A Guiding Framework for Higher Education Institutes" on 11th September, 2019.

There is no doubt that the attempt to streamline and to bring in uniformity in the IP Sharing & Ownership between the inventors (faculty/students/employees) and the educational institute is laudable. However, there is serious ambiguity and contradictions in the intent of the draft Model Guidelines by CIPAM versus Guiding Framework by AICTE with respect to IP Sharing and Ownership for 'Inventions developed by utilizing the resources of the academic institution'.

While the draft Model Guidelines by CIPAM states that Inventions developed by utilizing the resources of the academic institution shall **ordinarily be vested with the academic institution** (academic institution shall be sole applicant), the Guiding Framework by AICTE states that *Inventions developed by utilizing the resources of the academic institution is to be jointly owned by inventors and the institute* (academic institution will be co-applicant with the inventor).

Recently, on 9<sup>th</sup> September, 2019, the Deccan Herald reported that Karnataka University (KU) had transferred patent rights of Recombinant Lectins to Sponsor Unichem without bringing it to the notice of the original researchers (Scientist couple Prof B M Swamy and Dr Shashikala Inamdar from the Department of Biochemistry at KU) or the Syndicate members. Hence, a detailed probe was demanded by Prof B M Swamy.

Hence, to avoid such conflicts in the future, clarity needs to be brought between the aforementioned draft Model Guidelines by CIPAM and Guiding Framework by AICTE regarding ownership of the IP developed using the resources of the academic institution.

Model Guidelines by CIPAM: [https://www.aicte-india.org/.../AICTE%20Brochure\\_10.09.19.PDF](https://www.aicte-india.org/.../AICTE%20Brochure_10.09.19.PDF)

Guiding Framework by AICTE:

[https://dipp.gov.in/sites/default/files/Draft\\_Model\\_Guidelines\\_on\\_Implementation\\_of\\_IPR\\_Policy\\_for\\_Academic\\_Institutions\\_09092019.pdf](https://dipp.gov.in/sites/default/files/Draft_Model_Guidelines_on_Implementation_of_IPR_Policy_for_Academic_Institutions_09092019.pdf).

Deccan Herald: <https://www.deccanherald.com/state/ku-transfers-patent-of-cancer-drug-researchers-in-dark-760269.html>

## IP Snippets

### Ministry of Commerce and Industry has proposed to reduce the fees for various IPRs

<https://pib.gov.in/PressReleaseDetail.aspx?PRID=1585173>

IPR	Activity	Category	Current Fees	Proposed Fees	Reduction (%)
Patents	Filing	MSME	4000/ 4400	1600/ 1750	60
	Request For Examination		10000/ 11000	4000/ 4400	60
	Expedited Examination (Only E-Filing)		25000	8000	68
	Renewal		2000 to 20000 (+10% for physical filing)	800 to 8000 (+10% for physical filing)	60
Designs	Filing	MSME/ Startup	2000	1000	50
Geographical Indications	Registration	Authorised User	500	NIL	100
	Issuance Of Registration Certificate		100	NIL	100
	Renewal		1000	NIL	100

#### IPAB Goes Headless With Retirement Of Justice Manmohan Singh

The term of Chairman of IPAB, Justice Manmohan Singh has expired on 21<sup>st</sup> September, 2019 and no fresh appointment of the Chairman appears forthcoming.

<http://iprmentlaw.com/2019/09/23/ipab-goes-headless-with-retirement-of-justice-manmohan-singh/>

#### Google AI, can predict cardiovascular problems: Google CEO Sundar Pichai

<https://www.youtube.com/watch?v=tLVzPt3azY>

#### 2nd National Water Awards 2019

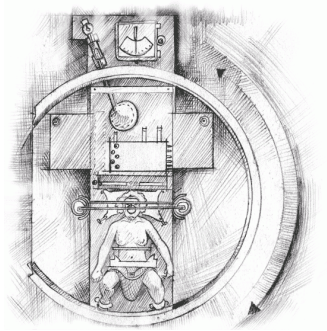
2nd National Water Awards, 2019 has been launched by Department of Water Resources, River Development & Ganga Rejuvenation for FY 2019-20. The last date of submitting entries is 30th November, 2019. For more information, please refer to the **websites:** <http://mowr.gov.in/> or <http://cgwb.gov.in/>

#### The Patents (Amendment) Rules, 2019

The Patents (Amendment) Rules, 2019 were notified on 17th September, 2019. Amendments have been made in rule 6, for sub-rule (1A), rule 7, in sub-rule (1), entry number 48 in the First Schedule, the Second Schedule, in Form 18A. Specifically in rule 24 C, in sub-rule (1), for clause (b), Patent Applications on application under Form 18-A will be expediently examined where the Applicant comprises at least one Female Applicant. <http://www.ipindia.nic.in/newsdetail.htm?569>

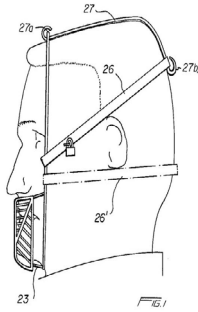
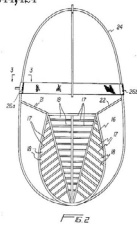
**Crazy Funny Patents**

**US Patent US3216423: Apparatus for facilitating the birth of a child by centrifugal force**

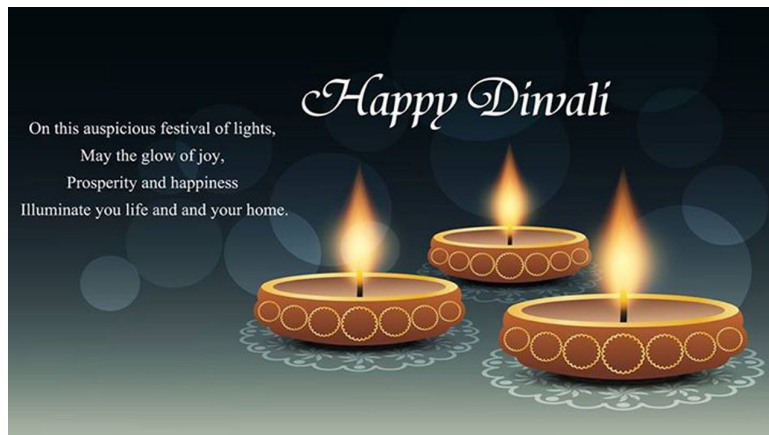


**US Patent US4344424: Anti-eating face mask**

LUCY L. BARMBY  
ANTI-EATING FACE MASK  
Patented August 17, 1982  
No. 4,344,424



**US Patent US6681419: Forehead Rest For Urinals**



For correspondence please contact : [helpdesk@ciprom.org](mailto:helpdesk@ciprom.org)