

Intellectual Property advocacy in the fields of:

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

**APR 2022**

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## *Editorial*

### **The Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM) - A ship without a Captain**

In a recent report of the Parliamentary panel, it was found that the number of patents filed by individuals and organisations in India is growing at a rapid speed, however, India is still way behind countries like USA, Japan and China. The Panel has asked the Centre to consider a series of steps to ensure that the country moves to the front row of nations that lead the world in fresh knowledge creation. According to the data available with the panel, in 2018, India had granted 13, 908 patents which nearly doubled to 26, 361 in 2020. While the growth is substantial, during the same period China had granted over 4.3 lakh patents in 2018 and in 2020, this figure crossed the five lakh mark.<sup>1</sup> The Parliamentary panel has stressed on the need of special and specific attention for improving and creating the right ambience for the growth of Indian innovation and filing related application in line with other countries like US and China.

The Indian Patent Office has its good and bad days from 2009 to 2012. Shri P.H. Kurian, IAS, held the post of the Controller General (CG) with a blazing track record; so much so, he granted the one and only Compulsory License (to Natco for generic equivalent of Nexavar). He was succeeded by Shri Chaitanya Prasad, IAS and after him by Shri Om Prakash Gupta, IAS. However, for the last three years, the office of the Controller General is functioning without a full-time regular Controller General. Shri. Rajendra Ratnoo, IAS who is Joint Secretary, DPIIT, New Delhi has been assigned additional charge the Controller General of Patents, Designs and Trade Marks with effect from 16/11/2020 until further orders or till the joining of regular GC, whichever is earlier. While all is well with the office of the Patents and Trademarks, the current National theme of Innovation and IPR protection for progress of Nation deserves a full-time CG in the Intellectual Property establishment. A comparison of the growth of Patent filings and grants between India and China is alarming. Indians are prolific researchers, innovators and inventors globally. However, the performance of Indians within India is relatively dismal. We need to create and provide the right ambience and inspiration for Indians to Innovate, create IPR and contribute value addition to National Economic growth. Now that the COVID pandemic is retreating, let us put together our best foot forward and appoint the best and most suitable person of IAS cadre as the Controller General of Patents, Designs and Trade Marks, in the best interests of the Nation and as a mark of respect to our potential innovators and researchers.

<sup>1</sup> <https://timesofindia.indiatimes.com/india/indian-origin-people-filing-patents-in-other-countries-which-provide-more-protection-to-their-discoveries-finds-parliamentary-panel/articleshowprint/90476155.cms>

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## US, EU, India and South Africa make progress on Covid vaccine IPR waiver

The United States, European Union, South Africa and India have agreed on key elements of the WTO's Trade-Related aspects of Intellectual Property Rights (TRIPS) agreement that is aimed at making more countries get access to Covid-19 vaccine. However, this will now need the backing of the 164 members of the WTO, which takes decisions based on consensus, so rejection by just one country could still block an accord

Source: [https://www.business-standard.com/article/current-affairs/us-eu-india-south-africa-make-progress-in-covid-vaccine-waiver-122031601551\\_1.html](https://www.business-standard.com/article/current-affairs/us-eu-india-south-africa-make-progress-in-covid-vaccine-waiver-122031601551_1.html)

## "Unacceptable": Delhi High Court Imposes ₹1 Lakh Cost Each On Two Officials From Trade Marks Controller General's Office For Concealing Facts

The Delhi High Court has imposed a cost of Rs. 1 lakh each on two officials of office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) over non-disclosure of facts, thereby wasting judicial time. Justice Pratibha M Singh was dealing with a batch of petitions filed alleging the arbitrary and discriminatory manner in which the CGPDTM had disallowed the petitioners from filing oppositions to the trademark applications, which each of them wished to oppose. The said oppositions were not entertained on the ground that they were proposed to be filed beyond the time period of four months, as prescribed under sec. 21 of the Trademarks Act, 1999.

Source: <https://www.livelaw.in/news-updates/delhi-high-court-controller-general-of-patents-concealing-facts-cost-194859>

Office of CGPDTM, Mumbai  
Govt. of India

28 March, 2022

### PUBLIC NOTICE

In compliance to the direction of the Hon'ble High Court, Delhi vide Order dated 21/03/2022 in the matter of W.P. (C)-IPD 4/2022 & CM 27/2022 & others, any person who wish to file an opposition against any trademark published from Journal No. 1928 dated 18/11/2019 to Journal No. 2036 dated 24/01/2022 (both inclusive, irrespective of status of the application whether it be registered / opposed / accepted & advertised / advertised before acceptance) may submit the same in the respective jurisdictional office of the Trade Marks Registry either through hand or post so as to reach to Registry Office on or before 30/05/2022.

Sd/-

Controller General of Patents, Designs & Trademarks

Source: [https://ipindia.gov.in/writereaddata/Portal/News/798\\_1\\_Public\\_Notice\\_28032022.pdf](https://ipindia.gov.in/writereaddata/Portal/News/798_1_Public_Notice_28032022.pdf)

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## 19 Indian companies get licence to make Pfizer's oral generic

The Medicines Patent Pool (MPP) has granted licences to 19 Indian pharmaceutical firms to manufacture and commercialise the generic version of Paxlovid, Pfizer's oral antiviral Covid-19 pill.

These include Cipla, Sun Pharma, Laurus Labs, Divi's Laboratories, Glenmark, Emcure, Macleods, SMS Pharmaceuticals, Strides, Torrent, Cadila, Biocon, Aurobindo Pharma, Hetero, Granules, Amneal, and Viatris, among others.

Source: <https://economictimes.indiatimes.com/industry/healthcare/biotech/pharmaceuticals/19-indian-companies-get-licence-to-make-pfizers-oral-generic/articleshow/90299809.cms>

## Malaysia's New Patents (Amendment) Act 2022

The Intellectual Property Corporation of Malaysia (MyIPO) has announced a Patents (Amendment) Act 2022 that came into force on 18 March 2022.

Some of the notable key changes under the amended Act are as follows:

- deferral of substantive examination is no longer available, only deferral of *modified* substantive examination is available on the basis that the prescribed corresponding patent to be used for modified substantive examination has not been granted;
- for post-grant amendment, the Registrar may require patentee to file a request for re-examination of the amendment, or the patentee may make such a request on his own volition;
- any person may, within the prescribed period, make observations on any matter relating to patentability of a patent application;
- certain deadlines can no longer be extended;
- it is now made clear that a divisional application cannot be filed once an application is granted, refused, deemed to be withdrawn, withdrawn, or abandoned;
- the period for reinstatement of lapsed patent (due to non-payment of renewal fee) has been shortened to 12 months instead of 2 years from the date on which a notice of the lapsing of a patent is published; and
- any interested person may now initiate opposition proceedings within the prescribed period from the date of publication of the grant of a patent by filing a notice of opposition.

Source: <https://www.spruson.com/patents/malysias-new-patents-amendment-act-2022/>

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## US investigating Apple, Samsung, and more over Wi-Fi patent complaint

The USITC has agreed to conduct a widespread investigation of Apple and a dozen more technology firms, following a filing from a patent troll based in Ireland.

Apple is one of 13 companies, including multiple divisions of Samsung and Lenovo, which are collectively to be investigated in response to a filing from Arigna Technology Limited of Dublin. Arigna Technology has lodged this complaint with the USITC in support of its suit against the same companies filed with the US District Court for the Western District of Texas in February 2022. That suit is the core of the complaint, and alleges that all big tech is infringing on its wireless patents. The Dublin company is a non-practicing entity (NPE), which is currently involved in many patent suits. It reportedly acquired over 30 patent assets from Mitsubishi Electric in February 2020. So far, it has been using them to sue companies in the automotive industry.

Source: <https://www.tribuneindia.com/news/business/amazon-future-dispute-sc-sets-aside-delhi-high-court-orders-366282>

## Delhi High Court Grants ₹15 Lakhs Monetary Damages To Owner Of Trademark 'BOAT' Over Seizure Of Counterfeit Products

The Delhi High Court has ordered a total of Rs. 15 lakhs monetary damages to be paid the owner of trademark 'BOAT' over seizure of various counterfeit products based on inspection made by Court appointed Local Commissioners. Justice Pratibha M Singh was of the view that the Defendants had blatantly infringed the trademark and logos as also the packaging of the Plaintiff's. Therefore, considering the quantum of counterfeit products which were seized, the Court decreed the suit against the two defendants no. 1 and 6. While the suit was decreed against the Defendant No.1 for a sum of Rs. 5 lakhs, the same was done against the Defendant No. 6 for a sum of Rs.10 lakhs.

an accord

Source: <https://www.livelaw.in/news-updates/delhi-high-court-boat-trademark-counterfeit-products-monetary-damages-194951>

## US firm sues Emcure for \$950 million over 'stealing' trade secrets

US firm, HDT Bio Corp, has filed a \$950 million suit against Pune-based Emcure in a Washington federal court, accusing the Indian company of "stealing" trade secrets for a new Covid-19 vaccine. HDT Bio said the Pune firm had stolen its innovative vaccine technology which it had licensed to Emcure's subsidiary Gennova for manufacture and distribution in India.

Source: <https://timesofindia.indiatimes.com/business/india-business/us-firm-sues-emcure-for-950-million-over-stealing-trade-secrets/articleshow/90383545.cms>