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Intellectual Property advocacy in the fields of:

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

EDITORIAL

FRUGAL INVENTIONS AND INDIAN "JUGAADS" – UTILITY PATENTS

A few years earlier, while attending a WIPO session at Geneva, I was pleasantly surprised to hear a US Judge, who was an invitee, speak on "Indian Jugaads", which was truly an eye opener, even for me. I was always an admirer of "Jugaads" and I had felt strongly for the need to provide a milder form of IP protection for Jugaads which will at least provide the inventor (or creator) recognition for this need-based creativity.

Frugal inventions may not strictly be meeting the higher patentability criteria as per Patent Act. However, most often or almost always, the fugal inventions originate out of a need in the market place and are, therefore, having a higher degree and percentage of usefulness and utility. As such, in some countries, frugal inventions are granted Utility Patents. Considering the benefit that the Frugal Inventions provide to the needy communities, often grass root users, such as farmers, labourers or housewives and students, there need to be some form of formal status of recognition or protection for such frugal inventions.

Major objections for providing IP/Patent protection to Frugal Inventions (or Petty Patents or Utility Models) came from Pharmaceutical Industry who were already facing post - WTO and post – TRIPS, large number of patent litigations.

Such fears of litigations may be overcome by providing a lower term of protection for Frugal Inventions with no scope for litigations, challenge or legal enforcement. Utility Patents based on Frugal Inventions can be provided treatment similar to SEPs (Standard Essential Patents), which can be licensed out to needful users on very nominal, fair and reasonable licensing fees.

Frugal Inventions are called "Utility Patents" in most countries like China, Japan and few of the European Countries such as Albania, Austria, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Poland, Portugal, Slovakia and Spain. The legal terms for "Utility Patents" in these countries may be adopted in India.

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PETTY PATENTS AROUND THE WORLD

This article was originally published by Osha Bergman Watanabe & Burton LLP (OBWB). It is available at:

https://www.obwb.com/newsletter/petty-patents-around-the-world

Key points from the said article are given below:

- **Utility models** are a form of intellectual property that protects technical innovations, mainly products or devices.
- They are known by different names worldwide (e.g., petty patents, utility certificates).
- Protection is **shorter than patents** typically **6-10 years** versus 20 years for patents.
- Despite the shorter term, utility models grant **exclusive rights** similar to patents.
- They are **not available in all countries** and usually exclude methods or processes.
- Utility models often involve **simpler, faster, and cheaper registration** procedures.
- Substantive examination (especially inventiveness) is often limited or absent at filing.
- They can be strategically used alongside patents to secure **early or fallback protection**.
- Enforcement rules and practical value vary significantly by jurisdiction.

Country-Specific Highlights

China

- Covers only products (shape/structure).
- 10-year term.
- No full substantive examination; fast grant (often under one year).
- Can be filed simultaneously with invention patents for early protection.
- Widely used and effective for enforcement, especially against counterfeits.

Japan

- Covers product shape or structure; excludes methods.
- 10-year term.
- Registered without substantive examination.
- Enforcement requires an official technical opinion.
- Amendments after registration are very limited.
- Use has declined sharply in favor of patents.

Europe

- No unified system; only national utility models exist.
- Available in many countries, but not the UK.
- Germany, Italy, Spain, and the Czech Republic are the most active jurisdictions.
    - **France**: 6-year term, strict patentability standards, limited enforceability.
    - **Germany**: 10-year term, fast registration, widely enforced, branching-off from patents allowed.
    - **Italy**: 10-year term, lower inventiveness threshold than patents, enforceable despite slower registration.

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DELHI HIGH COURT HOLDS "TIGER" TO BE COMMON TO TRADE AND DECLINES INTERIM INJUNCTION

In Mayank Jain (Proprietor of Mahaveer Udyog) v. M/s Atulya Discs Pvt. Ltd. & Ors., CS (COMM) 412/2025, the Delhi High Court dismissed an application seeking interim relief in a trademark infringement and passing off dispute concerning the mark "TIGER GOLD BRAND".

The Plaintiff, proprietor of a registered device mark used in relation to agricultural implements, alleged that the Defendants' use of the mark "TIGER PREMIUM BRAND" for identical goods

amounted to infringement and passing off. The Plaintiff relied on prior and continuous use, claimed substantial goodwill among farmers, and asserted that the Defendants had dishonestly adopted the dominant elements of the Plaintiff's mark with only minor variations.

The Defendants resisted the application on the ground that the words "TIGER" and "BRAND" are generic, publici juris, and commonly used in trade. It was contended that registration of a device mark does not confer exclusive rights over individual word elements and that the competing marks must be assessed as a whole in accordance with the anti-dissection rule.

The Court held that the Plaintiff did not possess exclusive rights over the words "TIGER" or "BRAND", observing that these expressions are widely used in the market and lack inherent distinctiveness. The Court further noted that the Plaintiff had failed to demonstrate that the word "TIGER" had acquired secondary meaning in relation to agricultural implements. On a holistic comparison of the rival marks, the Court found them to be visually and structurally distinct and unlikely to cause confusion among consumers.

The Court also found that the Plaintiff had not established deceptive similarity, misrepresentation, likelihood of confusion, or sufficient goodwill to sustain a claim of passing off. Consequently, no prima facie case warranting the grant of interim injunction was made out.

Accordingly, the application for interim relief was dismissed.

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Trutech Machinery v. Controller of Patents and Another

Court: Bombay High Court

Bench: Hon'ble Justice Smt. Bharati Dangre and Hon'ble Justice Mr. R.N. Laddha

Date of Judgment: 9 January 2026

Facts of the Case

Trutech Machinery challenged before the Bombay High Court an order dated 8 July 2021 passed by the Assistant Controller of Patents granting a patent to Respondent No. 2 for an invention titled "An Improved Round Corner Cutting Machine for Exercise Note Books." The Petitioner had earlier filed a pre-grant opposition under Section 25(1) of the Patents Act, 1970, alleging anticipation, prior public use, lack of inventive step, and absence of patentable subject matter.

After considering the submissions, the Assistant

Controller rejected the pre-grant opposition and proceeded to grant the patent. The Controller held that the invention disclosed novel and inventive features, particularly with respect to the book-separation mechanism, and observed that the Petitioner had failed to substantiate its claims of prior public knowledge with admissible evidence. Aggrieved by the grant of the patent, the Petitioner approached the Bombay High Court by way of a writ petition seeking to set aside the impugned order.

Issues

The principal issues before the Court were whether the patent was rightly granted despite the pre-grant opposition, whether the Controller's order suffered from any procedural or legal infirmity warranting interference under writ jurisdiction, and whether the objections and evidence submitted by the Petitioner were adequately considered.

Judgment

The Bombay High Court observed that once a patent has been granted, the appropriate statutory remedy available to an aggrieved party is to seek revocation under Section 64 of the Patents Act, which provides for a comprehensive challenge to the validity of the patent. The Court noted that proceedings at the pre-grant opposition stage are summary in nature and are not intended to conclusively adjudicate upon all questions of validity.

The Court found no procedural irregularity or legal infirmity in the decision of the Assistant Controller and held that the objections raised by the Petitioner had been duly considered. In the absence of any patent illegality or violation of principles of natural justice, the Court declined to exercise its writ jurisdiction.

Accordingly, the writ petition was dismissed, while granting liberty to the Petitioner to pursue revocation proceedings under Section 64 of the Patents Act. The Rule was discharged.

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SUN PHARMA RECEIVES REGULATORY APPROVAL FOR GENERIC SEMAGLUTIDE IN INDIA

Sun Pharmaceutical Industries Limited has received regulatory approval from the Drugs Controller General of India (DCGI) to manufacture and market a generic version of semaglutide injection in India. The approval positions Sun Pharma among several domestic pharmaceutical companies preparing to enter the market as the

core semaglutide patent is set to expire in India in March 2026.

Semaglutide is the active pharmaceutical ingredient used in Novo Nordisk's widely prescribed drugs Wegovy for weight management and Ozempic for the treatment of type 2 diabetes. A number of Indian drug manufacturers, including Dr. Reddy's Laboratories, Cipla, Lupin, Mankind Pharma, and Zydus Lifesciences, have publicly indicated their intention to participate in this segment following patent expiry.

Sun Pharma will market its generic semaglutide injection for weight management under the brand name Noveltreat. The company stated that regulatory approval was granted after the successful review of Phase III clinical trials conducted in India. Noveltreat will be available in prefilled pen devices in five dosage strengths: 0.25 mg/0.5 mL, 0.5 mg/0.5 mL, 1 mg/0.5 mL, 1.7 mg/0.75 mL, and 2.4 mg/0.75 mL, with a recommended maintenance dose of 2.4 mg administered once weekly.

Commenting on the approval, Sun Pharma stated that Noveltreat meets global quality standards and is supported by robust clinical evidence generated in India demonstrating its efficacy and safety for weight management. The company also noted that, in December 2025, it had received regulatory approval to manufacture and market semaglutide injection for the treatment of adults with inadequately controlled type 2 diabetes mellitus. This product will be marketed under the brand name Sematrinity and is also scheduled for launch following the expiry of the semaglutide patent in India.

In anticipation of increased competition, Novo Nordisk has reportedly reduced prices of its weight management drug Wegovy by up to 37 percent in certain cases and has entered into a partnership with Indian pharmaceutical company Emcure to expand its market reach. In the same therapeutic segment, Eli Lilly has introduced its weight management drug Mounjaro in India and has partnered with Cipla for its marketing, albeit at unchanged pricing.

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ZYDUS LAUNCHES NIVOLUMAB BIOSIMILAR FOLLOWING DELHI HIGH COURT CLEARANCE

Zydus Lifesciences Limited has launched its biosimilar version of the cancer drug nivolumab in India after receiving clearance from the Delhi High Court, allowing commercial sales ahead of the patent expiry scheduled for May 2026. The

product has been introduced under the brand name Tishtha and is priced at a significant discount compared to the patented reference drug. According to the company, Tishtha is priced at ₹13,950 for a 40 mg dose and ₹28,950 for a 100 mg dose, substantially lower than the prices of the innovator product Opdivo, marketed by Bristol-Myers Squibb (BMS), which ranges from approximately ₹21,500 to over ₹1,00,000 depending on dosage. Zydus stated that the availability of two dosage strengths would enable oncologists to optimise dosing and reduce drug wastage, thereby lowering overall treatment costs. The company estimates that the eligible patient population for nivolumab in India exceeds 500,000.

Nivolumab is a monoclonal antibody immunotherapy and a PD-1 checkpoint inhibitor used in the treatment of several advanced cancers, including lung and head-and-neck cancers. While multiple checkpoint inhibitors are available in India, access has remained limited due to high pricing.

On 12 January 2026, a Division Bench of the Delhi High Court permitted Zydus to sell and market its nivolumab biosimilar, modifying a July 2025 single-judge order that had restrained the launch following a suit filed by BMS. The Court noted that nivolumab is a life-saving drug and that its patent is due to expire on 2 May 2026. Citing public interest, the Court held that the balance of convenience favoured allowing sales of the biosimilar during the remaining patent term.

The Court, however, directed Zydus to maintain detailed records of its sales during this interim period to enable compensation to BMS should the innovator ultimately succeed in the ongoing patent infringement proceedings.

Zydus stated that Tishtha has been developed and manufactured in India and is intended to ensure consistent long-term availability for patients requiring multiple cycles of immunotherapy. The company emphasised that uninterrupted access to checkpoint inhibitors is critical for both clinical outcomes and financial sustainability for patients and their families.

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INDIAN PATENT OFFICE REJECTS PATENT APPLICATION FOR ABBVIE'S CANCER DRUG VENETOCLAX

In a significant development with potential implications for patient access to affordable medicines, the Indian Patent Office (IPO) has rejected a patent application filed by

multinational pharmaceutical company AbbVie for its cancer drug Venetoclax, citing lack of inventive step and non-compliance with the provisions of the Indian Patents Act, 1970.

AbbVie markets Venetoclax in India under the brand name Venclexta, used in the treatment of certain blood cancers, including chronic lymphocytic leukemia and acute myeloid leukemia. The rejection was issued by the Delhi office of the IPO following sustained pre-grant opposition proceedings, during which seven parties challenged the application between 2018 and 2025.

The Patent Office held that the claimed invention was obvious and failed to satisfy the requirement of inventive step. It further found the application to be barred under Section 3(d) of the Patents Act, which prohibits patent protection for new forms or derivatives of known substances unless they demonstrate a significant enhancement in therapeutic efficacy. The provision is aimed at preventing the practice of patent "evergreening" and was notably applied by the Supreme Court in Novartis AG v. Union of India (2013) to deny patent protection to the cancer drug Glivec.

In its order, the IPO observed that the claims in the complete specification were not patentable under the Act and did not adequately describe the invention. The Office further noted that the application failed to demonstrate any enhancement in therapeutic efficacy over prior art. It also recorded that the applicant had not provided sufficient biological or pharmacological data to establish the claimed anti-cancer activity of the compounds.

The order stated that, in the absence of biological data supporting therapeutic efficacy, it could not be determined whether the claimed compounds delivered the purported clinical benefits. Accordingly, the applicant was held to have failed to establish pharmacological activity or therapeutic efficacy for the wide range of compounds claimed in the application.

Legal experts have noted that, unless the decision is challenged, the rejection clears the way for the entry of generic versions of Venetoclax in the Indian market, potentially improving affordability and access for patients.