
CONFERENCE REPORTS

International Seminar on Protection of India's Intellectual Wealth in the New Millennium

In recent years after our entry into WTO, India proved to be a novice in intellectual property regime and failed in protecting the national intellectual wealth. It is, however, never too late to learn.

National Research Development Corporation (NRDC), a government of India enterprise under the Department of Scientific & Industrial Research, Government of India, joined hands with the Institute of Intellectual Property Research & Practice (IIPRP), Gurgaon, to take up the national challenge of protecting India's intellectual wealth. In the post WTO scenario this has become a task of utmost importance not only for inventors and creative artists but also for industries, patent attorneys, law makers and all concerned in generating and preserving wealth for the nation.

A two-day seminar and a one-day workshop were organized on 2&3 December 2000 and 4th December, respectively at New Delhi. Speakers at the seminar and resource persons of the workshop were IPR luminaries from Germany, EPO and USA. These deliberations were a little different from the usual theoretical exercises, in the sense that the aim was to target the practical difficulties

being faced by the people in their respective areas.

Especially those who attended the workshop received a first hand guidance from IPR experts of world level, while towing a problem solving approach.

The delegates in the seminar as well as participants of the workshop hailed from a variety of sectors relating to intellectual wealth generation— patent attorneys, R&D managers of pharma companies, students and teachers of legal institutions, individual inventors and scientists from reputed institutions, IT and BT personnel. The seminar was attended by 90 delegates whereas the workshop was participated by 65 enthusiasts. The focus of the seminar was on IPR protection in the drugs and pharma sector (including herbal and natural products) with special emphasis on patenting of business methods on Internet, copyrighting and patenting of computer software, protection of databases and undisclosed information and legal issues involved in domain names. The workshop, however, probed exclusively on the drafting aspects of filing patent applications in European Patent Office and US Patent and Trademark Office.

The seminar was inaugurated by Shri Omar Farooq Abdullah, Union Minister of State for Commerce & Industry. The Minister reiterated that apart from the need to protect our intellectual wealth as a nation, it was also important that the benefits of this wealth are not cornered by only a few. ".... that our intellectual property is not purloined by mercantilist motives, without the benefits passed on, and shared with, the creators and the society in general", he said. The Minister stressed on the need for a full-fledged mechanism to protect our traditional knowledge, since the mere successes in revoking one or two patents abroad were not enough to guard our traditional wealth. He also outlined the measures taken in the Patents

(Second Amendment) Bill 1999 in order to protect bioresources and traditional knowledge. "... Government has also initiated an exercise to develop a digital database of traditional knowledge in the field of medicinal plants to avoid patenting of products based on such knowledge", he informed.

Dr. R.A. Mashelkar, DG, CSIR & Secretary, DSIR, in his keynote address stressed on the need to speedily digitize the knowledge base of the country. India's initiatives in getting some patents on traditional knowledge revoked abroad, encouraged and guided other developing nations to do the same for their countries. According to him we had a full century of IPR illiteracy from 1899 to 1998, i.e. from Bose to *basmati*. We all know that Prof. J.C. Bose had invented wireless four years before Marconi, but it was the latter who got the patent. Patent literacy, therefore, needed, urgent attention.

In his welcome address, Shri N K Sharma, MD, NRDC, saw wisdom in obtaining maximum benefits in the intervening period till our patent law finally comes to the terms of TRIPS. While we could still do legally the

necessary reverse engineering in this period within the national framework, in the international framework we can go on protecting our inventions in countries like USA and EPO where product patenting is in force, he opined. Deliberating on the services offered by NRDC in IPR matters, he informed that in the last five years NRDC has filed 551 patents in India and 20 abroad.

The Seminar was split into six lecture sessions and one multimedia session. The opening session was moderated by Dr. K.V. Swaminathan, Chairman, Waterfall Institute of Technology Transfer, New Delhi. Dr. Leander A. Feiler, Directorate Adviser, EPO, Germany, spoke on the 'Functioning of European Patent System' and 'Intermediates for Preparation of Known Final Products'. The three pillars of European Patent Office, according to him, are: (a) the inventor, (b) the patent office and (c) the industry. At present applications to EPO are fast increasing. He hoped that the cost of patenting may soon be reduced at EPO. He then deliberated upon the finer aspects of disclosing chemical compounds so as to ensure the broadest spectrum of protection. This was an interesting and valuable guidance for both inventors and patent attorneys seeking product patents, though right now it was not applicable as such to the Indian law. It appeared that to disclose a group of chemical compounds needed an expertise and art of its own type to have the maximum protection from a patent office. He also spoke on inventions coming out as solutions to technical problems. Issues specific to patenting in biotechnology were also taken by Dr. Feiler.

In the second session, which was moderated by Shri S P Agarwal, Adviser (DSIR), Mr. Garland Stephens of Pennie & Edmonds from USA spoke on 'Patenting of business methods—current status with US laws'. He

Explained how patents provided much broader and safer protection in comparison to copyrights and trade secrets.

Dr Y S Rajan, Scientific Secretary to the Principal Scientific Adviser, Govt of India, was the moderator for the third session focusing on the "Novelty of Invention According to European Patent Convention", Dr. Rer. Nat. Christoph Schon from Henkel, Feiler & Hanzel of Germany gave an account of the difference between US and EPO system in respect of novelty of an invention. In the fourth session, moderated by Dr A Lahiri, Adviser (DSIR), Dr. Schon continued to apprise of the benefits and the procedure to be adopted while proceeding through PCT route.

The fifth session on "Patent Protection for Computer Software in United States" was moderated jointly by Prof Anil Gupta of Indian Institute of Management, Ahmedabad, and Dr A K Sengupta, Managing Director, FITT, IIT, New Delhi. Mr. Richard P. Berg of Ladas & Parry, USA, gave an account of patent protection for computer software in USA. He explained in-depth this subject as practised in United States Patents and Trade Marks Office (USPTO) and deliberated upon how design patent protection can be acquired at USPTO on computer graphic displays.

In the last lecture session, moderated by Prof (Mrs) S K Verma, Director, the Indian Law Institute, New Delhi. Dr. Feiler answered the questions of delegates. On the point of 'Evaluation of inventive step of the compounds claiming pharmaceutical properties', he explained that 'novelty' and 'inventive step' should not be mixed up. "only after the novelty aspect has been tested, we go to test the inventive step," he said. In the border line cases the benefit of doubt is given to the applicant.

Dr. Feiler said that in their (EPO) method of problem-solving approach they stress upon the inventor to prove which problem has been solved as a result of their invention. He told that patent searches are now done online and so there are lesser chances of revocation as happened in the famous *viagra* case.

The concluding session was a pleasant change to the lecture pattern of communication. There was a multimedia presentation by Shri N.K. Sharma, M.D., NRDC, on an interactive training package on IPR. It is a multi-CD package from NRDC. In this self-learning package the fundamentals as well as professional level knowledge and other valuable information are available to the learner at the click of a mouse. In a country where the whole breed of S&T workers has to be made not only patent literate but also many experts in different fields of IPR have to be created out of them, this easy-to-learn package will be useful for all R&D institutions, universities, law schools and industries engaged in R&D.

In his valedictory address, Shri A.R. Lall gave a spicy account of the blatant IPR illiteracy, particularly among small industries and business firms, who many times did piracy not because of mal-intention but out of sheer ignorance.

Workshop

The workshop which followed the seminar was inaugurated by Shri Bachi Singh Rawat, Minister of State for Science & Technology. The subject of workshop was 'Breadth of Claims, Support by Disclosure & Scope of Protection of Patent'.

The workshop was arranged for a face-to-face interaction and in-depth discussion with experts from EPO and patent attorneys of

EPO and USPTO. It was a real problem solving session of one-to-one interaction in which persons engaged in filing and/or opposing the grant of patents in EPO, filing and initiating the re-examination proceedings at USPTO and other related matters took part.

The Minister was of the opinion that recent developments in IPR sector world over had necessitated the strengthening and acceleration of the Intellectual Product Creation Cycle which in turn required a directional shift from reverse engineering to forward engineering. There was need to take all possible steps to strengthen IPR awareness. "... We have to formulate the curriculum, train our faculty, develop case study materials,

educate our scientists working in R&D institutes and industry, provide updated information on the changes in IPR laws in other countries and the implications thereof for our law makers ...", he said.

A country aspiring to become world leader in knowledge-based industry in 21st century needs to have many such result oriented seminars, conferences, awareness programmes and also launch books and periodicals both in digital and print medium.

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