



A BULLETIN  
FROM  
TIFAC

# INTELLECTUAL PROPERTY RIGHTS (IPR)

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## Control of Anti-Competitive Practices Under TRIPS

It is generally understood that intellectual property rights (IPR) as prescribed under TRIPS are only meant to enhance the monopolistic environment by favouring the owners of IPR, and that TRIPS does not adequately address broader issues essential for raising the global standard of living ensuring full employment, optional use of the world's resources, protecting and preserving environment. It may be mentioned that all these issues are clearly enshrined in the preamble of the Agreement establishing the World Trade Organisation (WTO). In the short term, it may appear that the order suggested by TRIPS may not contribute much towards fulfilling the objectives of the WTO. However, TRIPS does have some strong features which would promote sharing of benefits of new knowledge by the whole human race despite the fact that IPRs are highly monopolistic in nature. The spirit inherent in TRIPS is quite well reflected in its objectives and principles.

The objectives of TRIPS are that the protection and enforcement of IPR should

contribute to the promotion of technological innovation and transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and balance of rights and obligations. One of the two principles enunciated in TRIPS stipulates that each Member would adopt appropriate measures to prevent the abuse of IPR by right holders or the resort to practices which restrain trade or adversely affect international transfer of technology. Evidently, each Member is expected to build in such features in its laws and practices, at the same time each Member has to be vigilant to ensure that other Member countries do not abuse/violate these objectives and principles. By doing so, it may be possible to attain the long term objectives of the WTO.

Section 8 of the TRIPS dealing with control of Anti-competitive Practices in Contractual License of IPRs recognises that some licensing practices and conditions pertaining to IPR, which restrain competition, may have adverse effects on trade and may impede the transfer and dissemination of technology. Each Member is free to specify in its legislation, licensing practices or conditions that may constitute an abuse of IPRs. Recognising that

rules and practices of one Member country may be at variance with the laws of another Member, this Section provides that each Member should give due weightage to the laws of other Members while deliberating on infringements emanating from violation of competitive practices. TRIPS only provides examples of such licensing practices such as exclusive grant-back conditions, conditions preventing challenges to validity and coercive package licensing. Therefore, each Member has the freedom to include all those practices and conditions which are considered anti-competitive in nature within the socio-economic and technological framework of the Member.

TRIPS does not spell out in detail various practices which may be treated as anti-competitive in nature in the present context. As the subject matter is of immense importance for the developing countries while importing technologies, whether on outright purchase or licensing, a basic understanding of such practices is essential. Many Members like USA, Japan and some European countries have strong domestic laws for unfair trade practices which also encompass licensing practices in respect of IPR. We have attempted to prepare a list of practices derived from the

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*Inventions must be novel, non-obvious and useful for being patentable*

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### **Control of ....**

practices followed in these countries, which are considered anti-competitive and monopolistic by all of the above or some countries. These practices may be construed as anti-competitive but whether all of these should be included in a domestic law, is a matter to be decided by each Member.

1. Grant-back licensing in which a patent licensee must license back to the licensor any improvement patents (without claiming any financial benefit) may be considered anti-competitive if there is an intent to restrain trade. This augments the market power of the licensor in an unjustified and anti-competitive manner.

2. Tie-in-clauses are often introduced in the license agreement through which the owners of patents try to capitalise on the return they obtain from licensing technology (patents, copyright, trade secret etc.) by requiring the licensee to purchase unpatented materials e.g. raw materials. This practice is adopted in case of process inventions.

3. Package licensing involves a licensee's taking several licenses in intellectual property even though he or she may not need all of them. This situation comes up due to coercion by the licensor. On the contrary, if a product has many patentable aspects, it is common practice to license all patents in a package. All such patents may be recited in this license agreement.

4. A condition prohibiting a licensee from challenging the validity of licensor's intellectual property rights would be considered anti-competitive (In

case of patents the validity may be challenged due to lack of novelty).

5. Any condition or practice which restricts competition in research, development, manufacture, use or sales.

6. Licensing which provides for royalty payments beyond the patent expiration date.

7. A condition imposing quality control on the licensed patented product beyond those necessary for guaranteeing the effectiveness of the licensed patent or for maintaining goodwill of a trademark.

8. Restricting the right of the licensee to sell products of the licensed know how to persons other than those designated by the licensor. Such a condition is often imposed in the licensing of critical technologies like the dual use technologies.

9. Imposing a trademark use requirement on the licensee since this could restrict the licensee's freedom to select a trademark which is one of the means of competition. Further, in case of a patent plus trademark license, there is an inherent problem because of the possible perpetual duration of trademark coupled with limited duration of patents. Requiring a licensee to take such a license, could be held to constitute misuse of the patent.

10. Refusal by licensor to meet expenses and action in infringement proceedings. It is very difficult for a licensee to defend an infringement suit.

11. Undue restriction on licensee's business e.g., a patent for a drug may be licensed to one company to produce medicine for humans, and to another company to produce medicine for animals. In effect the field of use

of the drug is restricted.

12. Limiting the maximum amount of use the licensee may make of the patented invention.

13. Restricting the price and sale price of goods covered by the licensed patents.

14. Denying the licensee the right to handle competing goods or employ competing technology after the expiration of the license agreement.

15. Restricting the use of the licensed technology after any relevant patents have expired or impose royalties for continued use.

16. Limitation imposed on the management of licensee.

17. Condition to use staff designated by licensor.

18. Absence of provisions regarding training of national personnel.

In considering the above practices/conditions, it may be remembered that a particular license restriction may not be considered in isolation by the judiciary, but would usually be viewed in totality against the backdrop of the motivation of the patent owner. There appears to be enough leg space for each Member for stipulating its own anti-competitive practices/conditions in regard to contractual license of IPRs in accordance with its own legal, social, economic and technological frame work. There was a reference to such anti-competitive practices in a UN Report on 'The role of patent system in the transfer of technology to developing countries', published in 1975. Therefore, the industry may keep the above practices in mind while acquiring or licensing technologies.

*Incremental inventions are also patentable*

## Patenting in Textiles

PFC had attempted an analysis on Patenting in Textiles in its IPR bulletin Vol 2 No 3, March 1996 issue. An update on patenting in textiles is being presented. The present analysis mainly pertains to machinery and devices used in textile manufacture. Patent applications filed and as published in the Gazette of India Part III, Section -2 during January 1996 to December 1998 have been included in the study. A total of 470 applications have been filed in this area which includes spinning machine, guiding units, drafting apparatus, knitting machines, weaving looms, cabler and carding machines, screen printing machines, yarn manufacturing and yarn winding machines and quality control devices for monitoring the yarn and textile manufacture.

### Filings by Indians and Indian Companies

The analysis brings out the fact that the major players in this area are foreign companies. Of the total 470 applications filed in the area of textile machinery only 74 were filed by the Indian individuals and Indian companies, which constitute just 16% of the total applications filed. Major Indian players, who have filed patent applications, are listed in the Table I.

Table I

Indian Company	No of Applications
Indian Jute Industries Research Association	6
Lakshmi Machine Works Ltd	5
Ahmedabad Textile Industry's Research Association (ATIRA)	4
Star Spin & Twist Machines Ltd	4
Central Silk Technological Research Institute	3
Indian Council of Agricultural Research (ICAR)	2
Indian Card Clothing Co Ltd	2
South Indian Textile Research Association (SITRA)	2

The Central Coir Research Institute, Indian Precision Bearing Manufacturing Ltd., Indian Institute of Science, North Indian Textile Research Association (NITRA) and Electronic Research Development Corporation (ERDC) all have filed a single application each during this period.

The broad areas covered by the Indian major players include drafting apparatus, spinning two ply yarn from coil fibre, denier detecting device in silk

reeling, autoleveler for improvement of quality of jute fibre, cot and arbor assembly for textile machinery, method for producing improved jute based bulked yarn, crimping device, spinning machine, preparing jute fibres from raw jute, ring spinning machine, flyer spinning machine, web guide cover, spindle and bolster assembly of cabler machine and carding machines.

### Filings by Foreigners and Foreign Companies

396 applications, which constitute 84% of the total filings, were filed by foreigners and foreign companies. The companies filing more than ten applications are listed in Table II.

Table II

Company	No of Applications
Maschinenfabrik Rieter AG	54
Wschlafhorst AG & CO	22
Zellweger Luwa AG	16
Barmag AG	15
Kimberly Clark Corp	14
Trutzschler GMBH & Co KG	11
Rieter Ingolstadt	13

Areas in which most patent applications have been filed are given in Table III along with the numbers of applications filed.

Spinning machines and devices have been the favourite areas of the company at the top i.e. **Maschinenfabrik Reiter AG**. Interestingly Maschinenfabrik Rieter AG was at the top in the previous analysis as well. Their applications include spinning ring, spinning frame, adjustable web guide, cooling device for textile machine, fibre sorting device, ring spinning frame, plant for processing fibres, drafting units, drawing unit for spinning frame and such other applications mainly related to spinning.

**W. Schlafhorst AG & Co** mainly concentrated its applications in the field of cross coils, thread guiding equipment, conveyor system for a textile machine, guiding units, bobbin winding machine, can spinning machine, method for cleaning of the thread defects at a winding head of a winding machine. Of the total 16 applications filed by **Zellweger Luwa AG**, 14 related to quality control devices such as yarn sensor, fiber quality monitor device for monitoring moving yarn, automatic monitoring of textile surface structure, method and device for evaluating the quality of a yarn, method and device for detecting defects in textile webs, device preventing mass fluctuations in fibre material.

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Table III

Subject	Patent Applications
Spinning (machine, devices, rings, frames, wet spinning, dry spinning)	128
Yarn manufacture	49
Guiding units (yarn winding, feeding, take-up devices)	48
Quality control devices	39
Fibre (treatment, identification improvement)	35
Knitting machines	23
Webs	22
Thermal treatment of fibre/yarn cooling device	12
Weaving looms (including circular looms)	7
Carding machine	6
Screen printing machine	5
Cabler machine	4
Others	84

**Barmag AG** has 6 applications related to thermal treatment of fibres and 7 related to spinning devices and processes. Patent applications for thermal treatment of fibres are mainly units for heating and advancing yarn and heating device with exchangeable yarn guides. **Kimberly Clark** has applications related to nonwovens, yarn manufacture and fibre treatment. **Trutzschler GMBH & Co KG** has 2 applications for carding machines. The rest of applications by this company mainly relate to apparatus for measuring thickness of a fiber sliver combination at a draw frame, for example an autoleveller draw frame. **Rieter** has filed applications for open-end spinning device and guiding units for textile and yarn.

The patent applications included in the 'Others' category include a variety of sub areas in the field of textile manufacturing. These include bobbin changing and transporting device, conveyor system for a textile machine, device for manufacturing block bottom sacks, textile machine producing cross coils, plants for printing fabrics, needles used in the textile machine, solar textile processing house and several more related to devices used in different types of textile machines and yarn manufacture.

## Case Study

### Microorganism for producing immuno-suppressant drugs

The invention relates to a new microorganism which on fermentation can produce new immuno-suppressants. Such immuno-suppressants are useful in preventing human host rejection of foreign organ transplants, e.g. bone marrow and heart transplants. A US patent (No. 5202258) was awarded to Merck & Co., USA, in 1993 for the invention.

#### Prior Art

1. In 1983, US FDA licensed cyclosporin, an extremely effective anti-rejection drug that revolutionized the field of organ transplant surgery. The drug acts by inhibiting the body's immune system from mobilizing its vast arsenal of natural protecting agents to reject the transplant's foreign protein. However, it suffers from the drawbacks of causing kidney failure, liver damage and ulcers, which in many cases can be very severe.

2. EPO Publication No 0184162 describes a new macrolide immuno-suppressant FK-506 (L-679934) which is reputed to be 100 times more effective than cyclosporin. The macrolide is produced by fermentation of a particular strain of *Streptomyces isukubanesis*. Another closely related macrolide FK-520 (L-683590) produced *S. hygroscopicus* subsp. *yakushimaensis* is also described.

3. US Patent No. 3244592 describes the culturing of *Streptomyces hygroscopicus* var. *ascomyceticus* to produce antifungal called "ascomycin".

4. Production of any immuno-suppressive agent, which substantially lack the side effects of cyclosporin, was not known in public domain.

#### Present Invention

It has been found that the new immuno-suppressants, "demethomycin", and "demethimmuno-mycin" can be obtained by the fermentation of the microorganism Actino-planacete sp., ATCC No. 53771, with the macrolide immuno-suppressant L-679,934, or L-683,590, respectively, under submerged aerobic conditions in an aqueous carbohydrate medium, containing a nitrogen nutrient, said conditions being conducted at a pH of about 7 which are sufficient to selectively demethylate L-679,934 or L-683,590 at their respective C-31 positions.

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### Case Study

The resultant "demethomycin" and "demethimumnomylin" exhibit immuno-suppressive activity i.e., positive inhibition of T-cell activation, as demonstrated by the calcium ionophore (ionomycin) plus phorbol myristate acetate (PMA) induced T-cell stimulation assay, also referred to herein as the "T-cell proliferation assay".

The patent describes a biologically pure culture of new microorganism *Actinoplanacete* sp. MA 6599, ATCC No. 53771. On the basis of the taxonomic analysis performed thus far, the culture has been tentatively assigned in the order Actinomycetales and in the family Actinoplanacea. Further taxonomic characteristics are being examined to place this organism conclusively within a genus and species.

The patent document has provided one example each for producing the two drugs and one example each for demonstrating their immuno-suppressive activity. The following example describes the method of producing demethomycin.

### Example 1.

### Microorganism and Culture Conditions

The lyophilized culture ATCC No. 53771 was used to inoculate a 250 ml baffled shake flask containing 50 ml of an autoclaved (sterilized) seed medium consisting of (in units of grams/liter) dextrin 10.0% dextrose 1.0% beef extract 3.0%, ardamine PH (Yeast Products, Inc.) 5.0%, N-Z Amine type E 5.0%,  $MgSO_4 \cdot 7H_2O$  0.05%,  $KH_2PO_4$  0.37%, and  $CaCO_3$  0.5%.

The pH of the seed medium was adjusted to 7.1 before autoclaving. The seed was incubated in the seed medium at 27°C for 48 hours on a rotary shaker operating at 220 rpm. Alternatively, when frozen vegetative mycelia or a slant source is used, the culture is incubated in the seed medium at 27°C for 24 hours at 220 rpm. A 2.5 ml aliquot of the resulting seed medium was used to inoculate a 250 ml non-baffled shake flask containing 50 ml of each of the following two different previously autoclaved (sterilized) production media. L-679,934 was added as a solution in dimethylsulfoxide to achieve a final concentration of 0.1 mg/ml concentration. The shake flask contents were subsequently incubated for 16 hours at 27°C on a rotary shaker operating at 220 rpm:

1. Transformation medium B consisted of (in grams/liter) glucose 10.0; Hycase SF 2.0; beef extract 1.0; corn steep liquor 3.0; where the pH was adjusted to 7.0 before autoclaving.
2. Transformation medium C consisted of (in grams/liter) mannitol 5.0, glycerol 5.0, Hycase SF 2.0, beef extract 1.0, corn steep liquor 3.0, where the autoclaving.

### Isolation and Purification Procedure for Each Broth

The whole broth (100 ml) of transformation media B was extracted three times with methylene chloride (3X100 ml). Methylene chloride extracts were combined, dried over sodium sulfate, and concentrated under vacuum to an oily residue. The residue was dissolved in

acetonitrile and subjected to high performance liquid chromatography (HPLC) purification.

HPLC was carried out on Whatman Partisil 10 ODS 3, 4.6 mmX25cm column and monitored at 205 nm and 225 nm at 60°C. The column was developed with linear gradient from 0.1% aqueous  $H_3PO_4$ - $CH_3CN$ , 45:55 to 0.1% aqueous  $H_3PO_4$ - $CH_3CN$ , 20:80 in 30 minutes. The compound was collected during repeated injections of the above described extract. The fractions at retention time 14 minutes were pooled, adjusted to pH 6.5 and evaporated to remove acetonitrile. The compound was further purified using a  $C_{18}$  Sep-Pak (Waters Associates) and acetonitrile-water elution solvent to yield 1 mg. The compound was designated as L-682,993, "demethomycin". Similar results were obtained by the use of transformation medium C.

### Claim

The patent has the following single claim:

1. A biologically pure culture of *Actinoplanacete* sp., (MA 6559) ATCC No. 53771.

**Note :** Readers may note the importance of depositing microorganism culture in a designated depository for patenting a pure culture of a microorganism inspite of the fact that the said microorganism could not be placed conclusively within a genus and species at the time of filing the application. In other words it is possible to obtain a patent if the culture of the microorganism is available in a recognised depository even without a detailed taxonomical analysis.

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## Patents filed in India cross the 10,000 mark for the first time

The 26<sup>th</sup> Annual Report issued by the Controller-General of Patents, Designs and Trade Marks for the year 1997-98 shows an increase in the number of patents filed and patents granted. The highlights of the report are presented below :

1. Total number of applications filed during the year 1997-98 was 10,155 as compared to 8229 filed in 1996-97 showing an increase by 18.6%. There were 6973 convention applications.

2. The applications filed by Indians has registered an increase of 16% (from 1661 applications in 1996-97 to 1926 applications in 1997-98) whereas during the same period the foreigners (from 6901 applications in 1996-97 to 8229 applications in 1997-98) have increased their share of patent applications filing by 19% as compared to the last year. However the share of the former is only 19% of the total number of applications filed in 1997-98.

3. The maximum number of applications were filed in the area of electricals during 1997-98.

4. 1844 patents were sealed in the year 1997-98 as compared to 907 in the year 1996-97. The graph below shows the number of patents sealed in favour of Indians and foreigners during the last decade.

5. About 60% of all the applications have emerged from USA, Germany, Japan, UK and France. Infact these five countries account for 74%

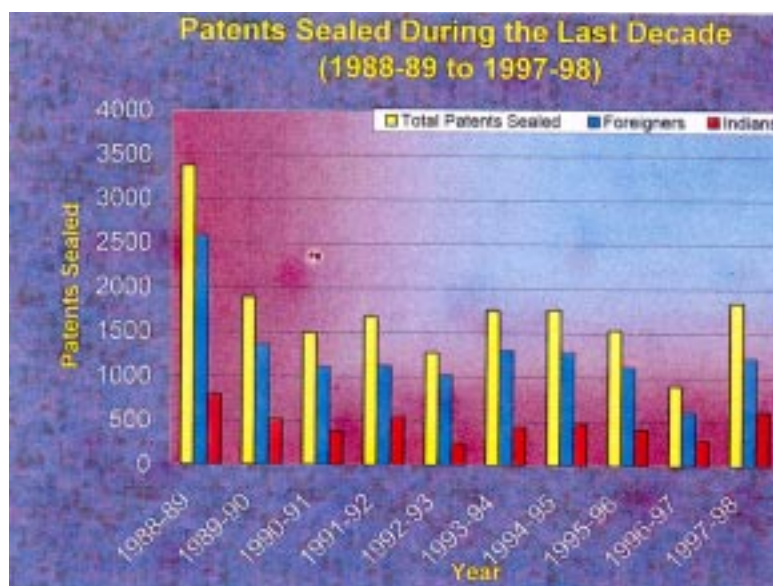
of the total filings by foreigners. Other countries taking interest are Switzerland, Sweden, Netherlands, Italy, Denmark, Finland, Belgium and Austria.

6. Out of 1,926 applications filed by Indians, the state wise figures are shown in the brackets : Maharashtra (580), Delhi (516), Tamilnadu (160), West Bengal (140), Andhra Pradesh (109), Karnataka (105), Kerala (66), Bihar (59), Gujarat (52), Uttar Pradesh (43), Rajasthan (35), Haryana (24), Punjab (15), Assam (9), Pondicherry (5), Himachal Pradesh (5), Chandigarh (4), Goa (2).

Interestingly, 43 applications had been filed by Madhya Pradesh in the year 1996-97, but no application has been reported from this state during 1997-98.

### Other Highlights of 97-98

* Complete specifications accepted	2580
* Number of oppositions received	33
* Patents in force on 31.3.98	8929
* Grant of compulsory licence	0
* Patents endorsed with words licence of right	706
* Applications examined	2688
* Applications awaiting examination	28,027



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## Patents for Opposition

The following patent applications have been accepted by the Patent Office and published in the Gazette of India. These can now be opposed by filing opposition applications within a period of four months from the dates given. Six digit numbers allotted after acceptance by the Patent Office are given before the applicant names and patent application numbers given in brackets. Names of the branches of the patent Office are denoted in the application number, e.g. 'Bom' for Bombay branch. An opposition application should be submitted at the appropriate office where the concerned application was originally filed.

### PATENT APPLICANTS

### INVENTION

#### A. 2 Jan,1999

182101. Keravision Inc, USA (513/Cal/93)	Astigmatic correcting intrastromal corneal ring.
182102. Montell Technology Company BV, The Netherlands (714/Cal/94)	Improved process for the preparation of ethylene polymer.
182103. Glenayre Electronics, USA (785/Cal/94)	Apparatus for use in a radio receiver.
182104. Owens-Corning Fiberglas Corp, USA (881/Cal/94)	A glass fiber insulation product comprising irregularly shaped dual-glass fibres.
182105. Owens-Corning Fiberglas Corp, USA (882/Cal/94)	A glass fiber insulation product.
182106. Vysoka Skola Chemicko-Technologicka, Czech Republic (879/Cal/94)	Crystal glassware manufactured from lead-free crystal glass with the refractive index higher than 1, 52.
182107. Owens-Corning Fiberglas Corp, USA (883/Cal/94)	Glass compositions for producing dual-glass fibers.
182108. Harris Corp, USA (441/Cal/94)	A glitch suppression circuit.
182109. Macrosonix Corp, USA (15/Cal/97)	An electrodynamic driver for an acoustic resonator.
182110. Macrosonix Corp, USA (17/Cal/97)	A fluid compression system.
182111. V K Shridhar & Anirudh, India (187/Bom/94)	A wheel set diagnostic device
182112. Surendra Jeet Singh Sandhu, India (417/Bom/94)	Electro-mechanical sound amplifier.
182113. Hindustan Lever Ltd, India (132/Bom/96)	A method for manufacture of skin cleansing composition with enhanced antimicrobial effect on skin.
182114. Hoechst Marion Roussel, India (205/Bom/96)	A process for the preparation of therapeutically active substituted 2-naphthoyl-guanidines.
182115. Dr Dinesh Patel, India (331/Bom/96)	A process for the preparation of therapeutic ketamine hydrochloride syrup preparation.
182116. Sun Pharmaceutical Industries Ltd, India (362/Bom/96)	A process for the recovery of tramadol as cis-tramadol hydrochloride in asymptotically quantitative amounts from mixtures of diastereomers of tramadol.
182117. Dr N J De Souza, India (370/Bom/96)	A process for a standardised diterpenoid containing herbal product for use in health care applications.
182118. Hindustan Lever Ltd, India (536/Bom/94)	A bleaching composition.

## International News

A US patent (Patent No 5,858,351) has been awarded to Johns Hopkins University and Avigen Inc. for a method which helps in delivering DNA to muscle cells using recombinant adeno-associated virus (AAV) vectors. Therapeutic proteins for many disorders are generated by injecting AAV vectors into muscle cell. The blood then transports these proteins throughout the body.

### (Genetic Technology News, Vol 19 No 5, Feb 3, 1999)

The following two internet laws have been passed by Sweden mainly to protect users of the Internet from attacks on their privacy.

#### 1) Personal Register Act

Under this act any information about an individual cannot be posted on the Internet without his permission.

2) BBS Act This Act provides that an Internet Service Provider (ISP), who provides storage as well as access to services, must remove from the Internet a message which obviously contains material about the instigation of rebellion, child pornography, racial agitation, description of violence, or which infringes copyright or other rights protected by copyright law.

### (Copyright World, Issue 86, Dec 98/Jan 99)

Some of the changes with respect to biotechnological inventions have been made in the industrial property law of Brazil from 15 May, 1997. The main

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*Inventions must be novel, non-obvious and useful for being patentable*

182119. Arun Dhandhania, India (587/Bom/96)	A process for manufacture of flavoured beverage.
182120. Lupin Laboratories Limited, India (22/Bom/97)	A process for the manufacture of ceftazidime.
182121. Surelok Technologies, India (0399/Cal/94)	An improved pilfer-proof security seal and/or fastening device.
182122. Cornelius Hacobus Du Plessis, USA (711/Cal/94)	Apparatus and process for activation and reactivation of wet or dry carbon by electrical resistance heating in the presence of steam.
182123. Hitachi Construction Machinery Co Ltd, Japan (593/Cal/94)	Hydraulic drive system for construction machine.
182124. ICI India Limited, India (875/Cal/94)	A process for treating a cellulosic or cellulose containing textile material to produce improved fabric material.
182125. Owens-Corning Fiberglas Corp, USA (885/Cal/94)	Method of making glass fiber insulation product.
182126. Mitsui Chemical, Japan (1066/Cal/94)	A method of preparing molded abb.-based resin.
182127. Reckit & Colman, India (1328/Cal/96)	A process for the manufacture of a lavatory cleansing composition.
182128. Citibank NA, USA (1398/Cal/96)	Electronic-monetary system.
182129. Citibank NA, USA (1402/Cal/96)	Electronic monetary system.
182130. V Mane Fils S A, France (1540/Cal/96)	Process for making a product with unique cooling perception.
<b>B. 9 Jan, 1999</b>	
182131. Montell Technology Co B V, The Netherlands (519/Cal/94)	Process for the polymerization of olefin.
182132. Johnson & Johnson Medical, USA (752/Cal/94)	A bioabsorbable prosthesis for the repair of damaged ligament/tendons.
182133. Hitachi Construction Machinery Co Ltd, Japan (814/Cal/94)	Slide bearing assembly.
182134. Mitsubishi Materials Corp, Japan (896/Cal/94)	Method for water-granulating calcium ferrite slag.
182135. Polartechncs Ltd, Australia (907/Cal/94)	Apparatus for categorization of tissue type.
182136. Siemens Aktiengesellschaft, Germany (173/Cal/95)	Combustion chamber for a gas turbine.
182137. Metallgesellschaft Aktiengesellschaft, Germany (474/Cal/95)	A hot gas line for conduting a carbon monoxide containing hot gas mixture.
182138. Eli Lilly & Co, USA (321/Cal/96)	Process for preparing a naphthyl compound.
182139. American Cyanamid Co, USA (1032/Cal/96)	Method for preparing monomeric caliceamicin derivative carrier conjugates.
182140. Metallgesellschaft Aktiengesellschaft, Germany (1898/Cal/96)	Process of producing crystalline d-sorbitol.
182141. Spindelfabrik Sussen Schurr Stahlecker & Grill Gmbh Dammstrasse, Germany (195/Cal/93)	Drive arrangement for a ring spinning machine or a ring twisting machine.
182142. Memminger-Iro Gmbh, Germany (358/Cal/94)	Yarn brake.
182143. Kabushiki Kaisha Hara Shokki Seisakusho, Japan(699/Cal/94)	A lap nipping device for a comber.

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### **International News**

biotechnological provisions are as follows :

\* living beings, in whole or in part and biological material found in nature including that isolated therefrom, as well as the genome or germplasm of any natural living being and natural biological processes are not considered as inventions (Article 10, item IX)

\* living beings, in whole or in part, except transgenic microorganisms are not patentable, (Article 18, item III);

\* in the case of biological material which is essential for carrying out the subject matter of the application but which cannot be described in a manner which is required and which has not been made accessible to the public, the specification shall be supplemented by a deposit of the material in a depository authorised by the Brazilian Patent Office or a depository which has been identified by an international agreement, (Article 24, sole paragraph)

**(Patent World, Issue 108, Dec 98/Jan 99)**

The European Parliament has approved the proposal called the Life Patents Directive to give patent protection to biotechnology inventions in the European Union. The main features of the Directive include :

a) Patenting of genetic material where a use or technological process is specified after the

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*Incremental inventions are also patentable*



182144. Novibra Gmbh, Germany (757/Cal/94) A tube coupling device for spindles of spinning or twisting machines and a process for assembling the same.
182145. Young Jin, Korea (837/Cal/94) Method and apparatus for producing lamp filaments.
182146. Copeland Corp, USA (887/Cal/94) A scroll compressor oil circulation system.
182147. Staedtler & UHL, Germany (936/Cal/94) A feed comb device for an combing machine.
182148. Hoechst Aktiengesellschaft, Germany (178/Cal/95) A colorant composition.
182149. Pai Lung Machinery Mill Co Ltd, China (402/Cal/95) A selecting mechanism for a circular knitting machine.
182150. Citibank N A, USA (1401/Cal/96) Electronic monetary system.
182151. Dilip Shantaram Dahanukar, India (384/Bom/94) Hermetically sealable pouch for free flowing liquids.
182152. Girish Vasant & Dilip Damodar Kulkarni Shankar, India (942/Bom/94) Process and plant for treatment of spentwash to render the same practically odourless colourless and as a neutral fluid affluent.
182153. Indian Petrochemicals Corp Ltd, India (526/Bom/94) A process for the manufacture of linear alpha-olefin.
182154. Core Healthcare Ltd, India (227/Bom/95) Tamper proof pour top bottle and its cap closure.
182155. LG Cable & Machinery Ltd, Korea (258/Bom/95) Sealing structure of heat-shrinkable sleeve for junction of pipes or cables.
182156. Filterwerk Mann + Hummel Gmbh, Germany (316/Bom/95) A modular apparatus for separating oil aerosol from air.
182157. Bakul Premchand Jain, India (355/Bom/96) A process for the preparation of an ayurvedic formulation for treatment of acquired immuno deficiency syndrom (AIDS).
182158. Shyam Khanna & Amar Lulla, India (110/Bom/97) A process for preparing an antiseptic herbal synergistic composition for fast healing of burns cuts and like wounds.
182159. Shyam Khanna & Amar Lulla, India (111/Bom/97) A process of preparing a herbal composition for vigour vitality and general health tonic.
182160. Lupin Laboratories Ltd, India (322/Bom/97) An improved process for the manufacture of 3-hydroxy-3-cephem derivatives.

#### C. 16 Jan, 1999

182161. Somos Gmbh, Germany (108/Cal/90) An improved apparatus for adsorbing moisture from gases especially air.
182162. Hansen Transmissions International N V, Belgium (398/Cal/94) A standardised series of gear units.
182163. Siemens Aktiengesellschaft, Germany (481/Cal/94) Method for producing a gas-tight solder joint between a ceramic A & D copper part.
182164. American Bank Note Holo Graphics Inc, USA (489/Cal/94) A thin laminar magneto-optical identification device and a method of producing the same to serve as a credit card with enhanced security.
182165. Glitsch Inc, USA (694/Cal/94) A method for obtaining carboxylic acids from a first dilute aqueous solution thereof.

*Contd from...8*

#### International News

discovery of a particular gene sequence is now possible.

b) New plant varieties incorporating a technological process will be patentable.

c) Cloning, patenting of human body parts or embryos for industrial or commercial purposes, or modifications of animals that cause them suffering are prohibited under the Directive.

**(Tech Monitor, Vol 15 No 5, Sept-Oct 1998)**

Microsoft has won its first software piracy lawsuit in China against Beijing Haisida Science and Technology Development Co and Min'an Investment Consulting Co. The Beijing Court has ordered the companies to pay \$ 100,000 to Microsoft and issue a public apology in specified newspapers as the duo was found guilty of copyright infringement involving unauthorised use of Microsoft products.

**(Financial Express, 15 Feb 99)**

#### Domestic News

Parle Products Ltd and Bakeman's Industries Ltd were involved in trademark tussle recently. Parle Products Ltd has been using the trademark GLUCO on its biscuits popularly known as Parle-G biscuits and sold for Rs 4/- in the market. The Parle-G is given more prominence on the packet than the GLUCO. The Bakemans are selling the biscuits for Rs. 5/- having the brand name GLUCOGOLD written very

*contd on...10*

*Inventions must be novel, non-obvious and useful for being patentable*

182166. S N C Melchior Technologie, France (730/Cal/94) An improved internal combustion engine.
182167. Krone Aktiengesellschaft, Germany (865/Cal/94) Termination unit for telecommunication and data lines.
182168. Walter AG, Germany (1078/Cal/94) Method and milling tool to make deep grooves in a workpiece especially in rotors of generators and turbines.
182169. E I Dupont De Nemours and Co, USA (15/Cal/95) Process for the separation of glycols from dimethyl terephthalate.
182170. Micro Motion Inc, USA (952/Cal/96) Measurement circuitry for two input signals for eliminating measurement errors from a coriolis meter.

#### D. 23 Jan, 1999

182171. Ing Alessandro Olivetti S R L, Italy (27/Cal/95) Biochemically-powered self-exciting electric power source.
182172. Maschinenfabrik Gustav Eirich, Germany (168/Cal/94) An apparatus for ascertaining the characteristic of moulding sand.
182173. Westinghouse Electric Corp, USA (831/Cal/94) Improved in or relating to gas turbine combustor.
182174. Precise Power Corp, USA (1046/Cal/94) Versatile dynamo electric machine.
182175. Little Rapids Corp, USA (1052/Cal/94) Composite filter ply and multi-ply filter formed thereof.
182176. Goldstar Co Ltd, Korea (95/Cal/95) An improved mounting device for mounting a temperature control switch in the freezer compartment of a refrigerator.
182177. Engelhard Corp, USA (82/Cal/95) A process for the preparation of titanium molecular sieve.
182178. Santanu Roy, India (163/Cal/95) A novel process for the manufacture of polymeric foam or elastomers of desired quality from stillage or fermentation broth using polysaccharides and/or cellulosic material.
182179. Metallgesellschaft Aktiengesellschaft, Germany (176/Cal/95) Process of purifying a gas with a scrubbing liquid.
182180. Siemens Aktiengesellschaft, Germany (532/Cal/95) Gas-blast high voltage circuit-breaker with an insulating material nozzle.
182181. Bhabha Atomic Research Centre, Department of Atomic Energy, of India (490/Bom/94) A process for the preparation of an aqueous emulsion pressure sensitive adhesive label.
182182. CSIR, India (690/Del/90) A stereo-selective process for the preparation of novel 7 epi-coleanol.
182183. CSIR, India (947/Del/91) An improved process for the preparation of ethanol by fermentation of molasses and other fermentable sugar containing substances.
182184. CSIR, India (1281/Del/91) A process for the preparation of a vanadium molybdenum catalyst useful for the preparation of 2-cyanopyrazine.
182185. CSIR, India (1282/Del/91) An improved process for the preparation of 2-cyanopyrazine from 2-methylpyrazine using novel catalyst.
182186. Canon Kabushiki, Japan (509/Mas/93) Apparatus and method for manufacturing ink jet printed products and jet printed products manufactured using the method.

*Contd from...9*

#### **Domestic News**

prominently on the packet. Parle Products filed a suit in Madras High Court against Bakemans Industries for the use of the word GLUCO in their trademark for the biscuits as they had registered this mark long ago. However the ad-interim injunction granted against the Bakemans was later vacated as GLUCO was considered a generic word. Moreover, the look of the packets of both the biscuits were differentiable by the customers of average intelligence and imperfect recollection.

#### **(Industrial Property Law Reporter, Vol 24 No 1, Jan 99)**

A book by N.B. Zaveri titled 'Patents for Medicine, Balanced Patent Law-The Need of the Hour' for Rs. 275/- is being offered by The Indian Drugs Manufacturers Association (IDMA). For details contact e-mail : idma@giabm01.vsnl.net.in

The IDMA is planning to set up a patent awareness and training centre within the next three months. The centre will play a significant role in reacting to frivolous patent claims and claims that attempt to cover products which have already been in the public domain. The centre will also conduct patent searches for its members.

#### **(Financial Express, 1 Feb 99)**

A joint venture process patent has been filed for a drug molecule by IIT, Mumbai and E.Merck. The patent has been sought for a single-step catalytic process for

*Contd on...11*

*Incremental inventions are also patentable*

182187. Mac Lean Fogg Co, USA (621/Mas/93)	A composite link for connecting electric lines such as transmission lines and a method of manufacturing the same.
182188. Seal Co, USA (681/Mas/93)	A device for reducing packing ring spin and opening up of packing ring joints.
182189. Kimberly Clark Worldwide Inc, USA (914/Mas/93)	An absorbent article.
182190. Kimberly Clark Worldwide Inc, USA (915/Mas/93)	An absorbent article having enhanced wicking capability.
<b>E. 30 Jan, 1999</b>	
182191. Ormat Industries Ltd, Israel (566/Cal/94)	Apparatus for augmenting the power produced by a gas turbine system.
182192. B & J Manufacturing Co, USA (644/Cal/94)	A rasp hub assembly for use in a tire buffing machine.
182193. Metallurgical & Engineering Consultants (India) Ltd, India (692/Cal/94)	Optical roller guide setting device e g for use in rolling mills.
182194. Reckitt & Colman of India Ltd, India (842/Cal/94)	A hand operated domestic spray pump.
182195. Goro S A, France (848/Cal/94)	A belt connector.
182196. Krone Aktiengesellschaft, Germany (906/Cal/94)	Insulation displacement contact element used in telecommunication and data technique.
182197. Goldstar Co Ltd, Korea (939/Cal/94)	Device for fixing heat exchanger of air conditioner.
182198. Mitsui Chemicals Inc, Japan (1036/Cal/94)	Polymerization process of vinyl chloride.
182199. SKF Textilmaschinen-Komponenten Gmbh, Germany (047/Cal/94)	A drafting system rolling mills for spinning machine.
182200. Asahi Glass Co Ltd, Japan (500/Cal/97)	An apparatus for producing deionized water.
182201. EMA Huemerunistrap-Verpackung, Austria (875/Cal/92)	Metering apparatus.
182202. Zinser Textilmaschinen Gesellschaft Mit Beschränkter Haftung, Germany (293/Cal/94)	Roving frame with integrated doffer.
182203. Drossbach Gmbh & Co Kg, Germany (538/Cal/94)	An apparatus for the manufacture of corrugated tubing from thermoplastic synthetic resin.
182204. La-Z-Boy Inc, USA (619/Cal/94)	A leg rest assembly.
182205. Santrade Ltd, Switzerland (638/Cal/94)	Granulating apparatus.
182206. Johnson & Johnson Inc, Canada (780/Cal/94)	A package for dispensing a particulated substance and device for forming the same.
182207. Kerr-Mcgee Chemical Corp, USA (976/Cal/94)	Method for producing TiO <sub>2</sub> and a control apparatus therefor.
182208. Shih-Hsien Lin, Taiwan (23/Cal/95)	An improved compact disk container.
182209. Ethicon Inc (Formerly Known as) Johnson & Johnson Medical Inc, USA (1877/Cal/96)	An apparatus and a process of making a sterilized article from a non-sterilized article by using hydrogen peroxide vapour.
182210. Mcneil-PPC Inc, USA (300/Cal/97)	An environmentally friendly tampon assembly.

*Contd from...10*

**Domestic News**

preparing 235 trimethylbenzoquinone from its raw source. The patent has wide applications in the pharmaceutical sector in terms of developing new drug molecules and is likely to be granted in six months.

**(Business Standard, 3 Feb 99)**

A patent has been filed by the Central Building Research Institute for termite resistance surface coating formulated with herbal extracts. The coating might be useful for painting of cellulosid building materials and also masonry surfaces.

**(The Hindu, 8 Feb 99)**

India has urged the World Intellectual Property Organisation (WIPO) to help in the introduction of courses in intellectual property rights and for conducting research on the subject. The request was made at a meeting between the Director General of WIPO, Dr. Kamal Idris and Union Minister for Science & Technology, Dr. Murli Manohar Joshi.

**(The Hindu, 9 Feb 99)**

A patent has been filed by Foundation for Innovation and Technology Transfer at IIT, Delhi for developing a vaccine carrier. The vaccine carrier can store vaccines at sub-zero temperatures such as minus 20 degrees celsius by applying some active process which could make heat flow from the cold zone to the heat zone.

**(PTI Science Service, Vol 17 No 24, Dec 16-31, 98)**

*Inventions must be novel, non-obvious and useful for being patentable*

## Indian Patent Databases



Indian Patent Databases on CD-ROMs are available with the Patent Facilitating Cell on the CDROM discs. The databases are user friendly and equipped with latest search tools and logical operations.

**Ekaswa-A** : Patent applications filed in India as published in the issues of the Gazette of India (Part III, Section 2) from January 1995 onwards  
(Classification has been done in this database into fields such as D-Drugs, C-Chemicals, Ele-Electricals, Eo-Electronics, Mat-Materials, Mech-Mechanical and G-General)

**Ekaswa-B** : Patent applications notified for opposition in the Gazette of India (Part III, Section 2) published from January 1995 onwards

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## PFC on the move...

The World Trade Centre (WTC), Mumbai and PFC joined hands and held an awareness workshop for industry in Mumbai. It was attended by about 50 senior representatives from industry. Experts provided clarifications on many questions related to patents and on the provisions of exclusive marketing rights.

A workshop was also held at the Centre for Advance Technology (CAT), Indore, an outfit of the Department of Atomic Energy in association with CAT, the MP State Council for Science & Technology for the benefit of scientists and academicians from CAT, neighbouring industry, educational and R&D institutions. It was attended by about 100 scientists. PFC association with the Department of Space continued when a workshop was organised in the Vikram Sarabhai Space Centre (VSSC), Trivandrum for the VSSC scientists and policy makers.



Workshop held at Indore



Workshop held at Mumbai

2. Two more patent applications were filed in India taking the tally of the total applications filed to 53.

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### NEXT ISSUE

- Patent Laws
- Case Study
- Trademark Report
- Patents for Opposition

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