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Case Law on Copyright of Computer Programs

Apple Computer Inc. vs Franklin Computer Corp.

Many questions have been posed to PFC regarding copyright issues in respect of computer software. Copyright laws provide the basic framework in this connection but their interpretation and applications are better understood with the help of case laws which often clarify many doubts in the minds of practitioners of copyright law, software experts, programmers etc. We present here a case law involving Apple Computer Inc and Franklin Computer Corporation on the matter of infringement of copyrights that Apple held on fourteen computer programs. The case was first heard by a district court in USA which disallowed Apple's request for injunction. Apple obviously not satisfied with the verdict of the district court appealed in the court of appeals for reconsidering the matter. The court of appeals reversed the decision of the district court disallowing preliminary injunction.

Background

Apple Computer Inc is well known for manufacturing and marketing of personal computers, related peripheral equipment and software. At the time when this suit was being fought, Apple manufactured Apple II computers and distributed over 150 computer programs. One of the by-products of Apple's success is the independent development by third parties of numerous computer programs designed to run on the Apple II computer. During the same time Franklin Computer designed and sold ACE 100 personal computers compatible with Apple computers so that the peripherals and software developed for use with Apple II computers could be used in conjunction with ACE 100 computers as well. Franklin achieved this compatibility by copying Apple's operating system computer programs.

Types of Computer Programs

There are three levels of computer language in which computer programs may be written. Statements in high level languages such as commonly used BASIC, FORTRAN, C++

(consisting of English words and symbols) and the assembly language (which consists of alphanumeric labels eg. ADC means 'add with carry') are known as 'Source Code'. The lowest level computer language is the machine language, a binary language, and statements in machine language are referred to as 'Object Code'. It is the object code, which is understood by the CPU. A computer program can be stored or fixed on a variety of memory devices, two of which are of particular relevance for this case. The ROM (Read Only Memory) is an internal permanent memory device consisting of a semiconductor chip, which is incorporated into the circuitry of the computer. A program in object code is embedded on a ROM before it is incorporated in the computer. The other device used for storing the programs at issue is a diskette or floppy disk, an auxiliary memory device consisting of a flexible magnetic disk resembling a phonograph record, which can be inserted into the computer and from which data or instructions can be read. Computer programs can be

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Case Law on...

categorized by function as either application programs or operating system programs. Application programs usually perform a specific task for the computer user, such as word processing, checkbook balancing, or playing a game. In contrast, operating system programs generally manage the internal functions of the computer or facilitate use of application programs.

The Case

Apple filed a suit in the US District Court for the Eastern District of Pennsylvania on May 12, 1982 alleging that Franklin was liable for copyright infringement of 14 computer programs, patents, unfair competition and misappropriation. The court took up the copyright matter alone. Apple produced evidence that programs sold by Franklin in conjunction with ACE 100 computers were virtually identical with those covered by the Apple programs. Apple had even spent 46 man-months and \$ 740,000 for developing these programs. The Apple programmer also asserted that his name was embedded in one program and the word 'Applesoft' was embedded in another. Both these names appeared on the Franklin Master Disk. Franklin did not dispute Apple's arguments but took a stand that Apple operating system programs are not capable of copyright protection. The district court denied the motion for preliminary injunction and it raised

some legal issues.

- (i) Whether copyright can exist in a computer program expressed in object code,
- (ii) Whether copyright can exist in a computer program embedded on a ROM,
- (iii) Whether copyright can exist in an operating system program,
- (iv) Whether independent irreparable harm must be shown for a preliminary injunction in copyright infringement actions.

Apple went to the court of appeals, which reconsidered the matter point by point. Regarding copyrightability of programs in object code, the court referred to definitions of literary work and computer programs as given in the US laws, "A computer program has been defined as a set of instructions to be used in a computer in order to bring about a certain result." This definition makes no distinction between application programs and operating programs. A literary work has been defined as, "Works, other than audio-visual works, expressed in words, numbers, or of the verbal or numerical symbols, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, films, tapes, disks, or cards, in which they are embodied." Therefore, the object code which is written in numerals 0 and 1 is a literary work and hence very much copyrightable.

It was further opined by the

court of appeals that two primary requirements must be satisfied in order for a work to constitute copyright subject matter, it must be original and must be fixed in a tangible medium of expression. The court held that the requirement of "fixation" is satisfied through the embodiment of expressions in the ROM devices. In some earlier case, it was decided that audiovisual display of video games "fixed" in ROM chip was an appropriate subject of copyright. Therefore, the court of appeals declared that a computer program embedded on a ROM is a copyrightable material.

Franklin's attack on operating system programs as "methods" or "processes" also seems inconsistent with its concession that application programs are an appropriate subject of copyright. Both types of programs instruct the computer to do something. Therefore, it should make no difference for purposes of determining whether these instructions tell the computer to help prepare an income tax return (the task of an application program) or to translate a high level language program from source code into its binary language object code. Since it is only the instructions which are protected, a "process" is no more involved because the instructions were written in ordinary English in a manual which described the necessary steps to activate an intricate complicated machine. There is, therefore, no reason to afford any less copyright

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Incremental inventions are also patentable.

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Case Law on...

protection to the instruction in an operating system program than to the instruction in an application program.

An argument was also put forward by Franklin that an operating system program is a part of a machine, hence is not copyrightable. The court opined that the mere fact that the operating system program may be etched on a ROM does not make the program either a machine, part of a machine or its equivalent. Because ROM is only a medium and not the message. Instead of ROM the operating system program could be written on a diskette or magnetic tape also. Programs should no more be considered machine parts than videotapes should be considered parts of projectors or phonorecords parts of sound reproduction equipment. The words of a program are used ultimately in the implementation of a process and this should in no way affect their copyrightability.

To Franklin's argument that the operating systems cannot be copyrighted because they are "purely utilitarian works" and that Apple is seeking to block the use of the art embodied in its operating systems, the court said utilising a work of copyright without permission was equivalent to piracy of the copyrighted work.

The district court had also observed that Apple was better suited to withstand injury than was Franklin to withstand the effects of an injunction, indicating that Apple would not experience irreparable harm. The court of appeals did not agree to this argument and stated that if that were the correct standard then an infringer would be permitted to construct business around its infringement, a result which could not be condoned.

The court of appeals reversed the denial of the preliminary injunction and sent back the case to the district court for further proceedings in accordance with the decision of the court of appeals.

PFC on the move...

1. Two more patent & IPR awareness workshops were held in July. The first one was organised in association with Satellite Application Centre (SAC), ISRO, at Ahmedabad on July 20. In spite of heavy rains, the workshop was attended by about 110 scientists from ISRO, universities, research establishments and industry. Participants raised many interesting questions on patents, copyrights and other forms of intellectual property leading to lively discussions. The queries from participants were clarified by the faculty. The second workshop was organised in association with G.B. Pant University of Agriculture and Technology, Pantnagar, U.P. on July 28. The workshop was attended by 300 scientists and technologists belonging to various educational and research institutions in the vicinity.



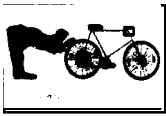
(Workshop held at SAC on July 20)



(Workshop held at GB Pant University on July 28)

2. One patent application in India and two applications abroad were filed during the month. These applications are in the areas of synthetic thickener compositions for textile printing and mechanical device for making fuel briquettes. With these, the PFC has so far facilitated filing of 63 patent applications, including 15 applications filed abroad

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A Case Study of an Improved Hub Assembly for a Rear Wheel Axle of a Bicycle

A patent (No. EP 583510) was granted by the European Patent Office in 1996, relating to a hub assembly for a rear wheel axle of a multi-speed bicycle.

Prior-Art

For multi-speed bicycles, a plurality of sprockets are engaged on one side of the hub assembly. These sprockets extend outwards on one side of the hub assembly. As shown in Figure 1, bearing 91 is disposed close to one end of the rear wheel axle, where as the bearing 92 is disposed away from the second end of the axle and is thus closer to the middle portion. Therefore, a distance "D", as shown in Figure 2, is formed between the bearing 92 and the second end of the rear wheel axle, such that a cantilever type support is formed. This results in generation of a large bending moment. The rear wheel axle thus cannot be stably supported, and bearing 92 will suffer a large force, such that the hub assembly will easily become loose.

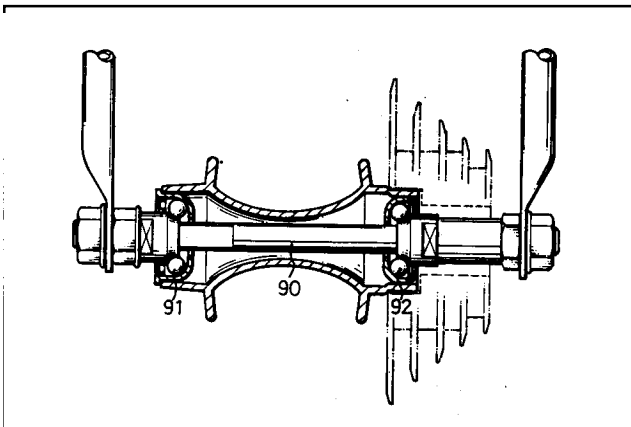


Fig-1

The objective of the present invention is to provide a hub assembly for stably supporting the rear wheel axle of the bicycle.

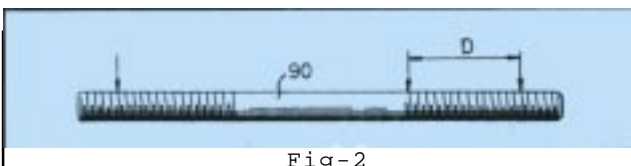


Fig-2

Present Invention

Referring to Figure 3, 4 and 5, a hub assembly provided for supporting the rear wheel axle of a multi-speed bicycle comprises a body 10 rotatably engaged on a rear wheel axle 20 having a first cone 21 threadedly engaged on a first end thereof and a second cone 22 formed integral on a second end thereof. A first bearing 23 is rotatably engaged between the first cone 21 and the first end of the body 10.

The body 10 includes a second end having an outer thread 11 formed thereon and located close to the middle portion of the rear wheel axle 20, and a barrel 12 formed integral on the second end thereof and extended outward toward the second

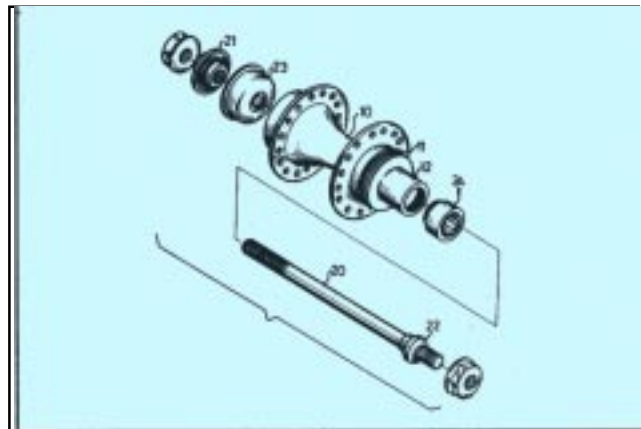


Fig-3

cone 22. A second bearing 24 is rotatably engaged between the second cone 22 and coupled to the free end portion of the barrel 12 by threaded

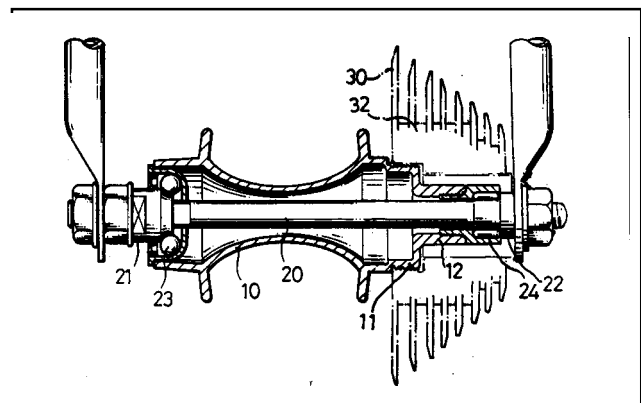


Fig-4

engagement or by force-fitted engagement. As shown

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A Case Law...

in Figure 4, a plurality of sprockets 30 of different sizes are unidirectionally and rotatably engaged on a sleeve 32 which has one end portion threadedly engaged on the outer thread 11 of the body 10. The sprockets 30 and the sleeve 32 are commercially available.



Fig-5

It is to be noted that the bearing 24 is located close to the second end of the wheel axle 20, such that the distance "d", as shown in Figure 5, is much smaller than with the distance "D" shown in Figure 2. This leads to substantial reduction in the bending moment.

Accordingly, the hub assembly includes a pair of bearings 23, 24 rotatably engaged on the end portions of the rear wheel axle 20 respectively, such that the rear wheel axle 20 can be stably supported in the hub assembly.

Claims

The patent has only one claim, which is reproduced below:

A hub assembly with a rear wheel axle (20) of a bicycle which includes a first cone (21) threadedly engaged on a first end thereof and a second cone (22) integrally formed on a second end thereof, said hub assembly comprising a body (10) which is rotatably engaged on said rear wheel axle (20) and includes a first end portion located close to said first cone (21) of said rear wheel axle (20) characterised in that said body (10) includes a second end portion having an outer thread (11) formed thereon and located close to a middle portion of said rear wheel axle (20), a barrel (12) integrally formed on said second end portion of said body (10) and extending outwardly from said outer thread (11) towards said second cone (22), sleeve (32) fixedly mounted around said barrel (12) and having one end portion threadedly engaged on

said outer thread (11) of said body (10), a plurality of sprockets (13) unidirectionally and rotatably engaged on said sleeve (32), a first bearing (23) rotatably engaged between said first end portion of said body (10) and said first cone (21), and a second bearing (24) rotatably abutting against said second cone (22) and including one end portion threadedly engaged in said barrel (12), whereby said first bearing (21) and said second bearing (24) are rotatably engaged on said first end and said second end of said rear wheel axle (20) respectively such that said rear wheel axle (20) is stably supported in place.

NB: *The invention appears simple but it finds a solution to existing problems of the hub assembly of a multi-speed bicycle. The bending moment on one of the bearings of the hub has been reduced and a better and more stable support for the hub assembly has been achieved through new design features. Hence it satisfies the criteria of novelty and non-obviousness.*

Scandinavians to Lead in Innovations by 2005

According to a new analysis called the **Innovation Index**, the Scandinavian countries are heading towards the top of the list of global high-tech innovators, while the United States is sinking. The new index created by Michael Porter of Harvard Business School takes into account the country's per capita R&D spending, percentage of the population with advanced degrees, and policies to protect intellectual property. The table shows the portion of top ten countries as in 1995 and as predicted in 2005. The most impressive performer in Porter's Top 10 is Finland, which he predicts will jump from sixth to second place.

Changing of the Innovation Guard

1995	2005
United States	Japan
Switzerland	Finland
Japan	Switzerland
Sweden	Denmark
Germany	Sweden
Finland	United States
Denmark	Germany
France	France
Canada	Norway
Norway	Canada

Source : Science, Vol 283 No 5409, 19 March 99

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Doing Litigation In Patents

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Litigation concerning patents essentially falls into the following categories (I) infringement of patents (II) validity of patents (III) appeals from the Decision of Controller of Patents. The present article will be confined to litigation arising out of infringement of patents within the scope of the Indian Patents Act 1970.

Infringements

A patent confers upon the patentee certain exclusive rights for a limited period. The grant of such limited monopoly to the patentee is based on the consideration of quid pro quo.

The extent of limited monopoly depends upon the nature of the invention. In India, under Section 48 of Patents Act, 1970, when the patent relates to a method or process of manufacturing an article or substance, the patentee has an exclusive right to use or exercise the method or process in India. Where the patent is for an article or substance (including machines, apparatus, device etc) the patentee has an exclusive right to make, use, exercise, sell or distribute such an article or substance in India. The scope of these rights in the context of a patent determines whether or not

an infringement has taken place.

The law does not define infringement. However, violation of the above mentioned rights by an unauthorised third party would constitute infringement. For instance in *Bristol-Myers Co. (Johnson's) Appln. (1975) RPC 127 at 153*, Lord Diplock stated: "In essence what the law of patents is about is stopping other people from using things". Several factors determine and affect a patentee's decision to institute a suit for infringement. The most important factors are (1) cost of the litigation (2) term of the patent (3) dilated proceedings.



Cost

Controlling costs of a patent litigation is every corporation's pipe dream. To quote a legal manager of a major US corporation "The legal group at our corporation is the only group without a budget, and still manages to exceed it every year. (*James A Forstner, Managing International Patent Litigation (edited by Michael Meller): International Patent Litigation, The Bureau of National Affairs Inc., Washington, D.C 20037*). Some of the methods by which the costs of overall litigation can be reduced are as follows: (1) avoid multiple teaming of outside legal counsels at conferences, litigation, depositions and hearings. (2) engage local counsels as far as possible. Even if you engage

outside counsels, they tend to engage local counsels (3) avoid making frivolous calls or visits to the counsel as most counsels charge on the basis of time spent (4) for conferences, always visit the outside counsel instead of asking the counsel to visit you. A counsel's overheads will almost always be higher than your own overheads for the same purpose, (5) provide the counsel with all the information that he/she requires before instituting proceedings to avoid unnecessary delay and escalation of costs. If time is money for the counsel, so is it for you and no counsel can rightfully charge for something that has resulted due to his/her negligence, inaction or oversight. (6) have an inside counsel maintain absolutely accurate and parallel copy of all the papers and closely monitor the outside counsel's work. (7) if you are contemplating infringement proceedings in several countries, engage a reputed attorney of that country with whom, it is easy to communicate with clarity and who is willing to act on your instructions. (8) collect all necessary evidence yourself, and depending upon the number of countries, have necessary numbers of original or certified copies of the documents ready at the first instance itself. (9) You should be the coordinator for all the concerned parties and exercise overall control.

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Doing Litigation In Patents

Some of the important considerations for deciding in favour/against filing an infringement suit :

1. Whether infringement is only in India or other countries as well. In countries like Germany, France, Italy, etc. where remedies for a patentee include inspection and seizure, institution of proceedings in these countries may enable the patentee to obtain valuable orders and proof for use in other countries.

2. The term of the patent remaining. If the patent is too new or it is due to expire in a few months time, the chances of obtaining a favourable order are remote.

3. The loss of profit in each country. If the patentee has no business activity in a particular country but extensive business in another, the choice of country to sue would be the latter.

4. The duration of infringement in each country. The earlier the infringer is sued better the chances of getting a favourable order. Any delay in instituting the proceedings could adversely affect the chances of obtaining an interim order.

5. The size of the infringer. It is easier to obtain a favourable order against the smallest party and use that order in the suits against larger parties or use it to

compromise with the larger parties. In a recent case of *SmithKline Beecham Corporation vs. Eden Cosmetics*, where the issue concerned infringement of a toothbrush design and copyright in a mold by several parties in India, a favourable order (interim injunction) was obtained against Eden Cosmetics which was smaller of several defendants.

6. Multi-jurisdiction infringement within the same country. It may be advisable to institute proceedings at the jurisdiction where the infringer is most vulnerable or the patentee is affected the most. Some courts may be more liberal in passing interim orders than the others and this may be an important factor in the choice of jurisdiction.

7. Financial resources. Depending upon how strong one is financially, one may opt for a low cost jurisdiction to reduce costs or a high cost jurisdiction to make it difficult for the other party to defend.

8. Ex parte order. One should attempt to obtain an interim order ex parte and then invite the defendant to enter into a dialogue for suitable settlement.

Term of the patent and delay in proceedings

The term of the patent remaining and the time it takes for an infringement suit to come up for hearing on merits are normally the factors taken into

account by a plaintiff instituting a suit for infringement. However, where a patentee is a holder of several patents, it becomes very important for it to sue an infringer so that it has a deterrent effect on other potential infringers.

Importance of Claims

It is extremely important that the claims are well drafted to bring out clearly the exact monopoly conferred upon the patentee. A badly drafted claim leaves the door open for an easy infringement thereof. An unnecessary limitation of the essential features in the main claim may enable an infringer to use mechanical equivalents and escape infringement on the plea that its product does not have all the features, which the patentee has specified as essential. (*R.C.A Photophone vs Gaumont British Picture Corporation (1936) 53 RPC 167; Raj Prakash vs. Mangat Ram Chowdury AIR 1978 Del at p. 9*)

Burden of Proof

Under the rules of evidence, the burden of proof is on the person who alleges a fact. Therefore, normally the burden of proof in a patent infringement case is on the plaintiff. There may however, be a special circumstance calling for the reversal of burden of proof. For instance, where the patent is for the production of a new or improved product, the defendant's process may, in the absence of

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Doing Litigation In Patents

proof to the contrary, be deemed to be an infringement of the patented process. This is especially so, if the defendant is unable to establish the existence of another commercially viable alternative process for the production of the same product. Thus, in *Saccharin Corporation vs. Dawson*, (1902) 19 RPC 169, the defendant could not establish that it did not use the patented process. In fact, the evidence showed that a known process, which was relied upon by the defendant could not have produced the product of the defendant. Although, the plaintiff could not prove that defendant's process infringed the patented process, in the absence of any other commercially viable alternative process which the defendant could have used, the defendant's process was deemed to be an infringement of the patented process.

Parts of a combination

Manufacture and sale of individual parts of a patented combination is not an infringement as long as the individual parts themselves are not patented. However, if the parts are manufactured only for the purpose of being put together and when put together form nothing but the patented machine, there is a clear

case of infringement. (*Dunlop Pneumatic Tyre vs. David Mosely* 21 RPC 274 at 280)

Import

Import of a patentable article or import of an article manufactured by a patented process would constitute infringement.

Colourable Imitations

Colourable imitations are held to constitute infringement. An infringing article is deemed to be a colourable imitation of the patented article if it adopts all the essential features claimed in the patent claim but has modified or altered or replaced or has added some inessential or inconsequential feature. In 4 RPC 333 at p 353: the court while defining colourable imitations said "A colourable variation is where a man makes slight differences in the parts of his machine, although really he takes in the substance of those of the patentee and gives a colour to suggest that he is not infringing the patented machine when he is really using mere substitutes for portions of the machine so as to get the same result for the same purpose.

Thus, the question for the Court is not that of detecting absolute similarity, but is that of seeing whether the pith and marrow of the combination has been taken, and if that has been done, there is an infringement in

spite of any modification.

Mechanical Equivalents

Replacing parts of the machine claimed by their mechanical equivalents would constitute infringement. A party is guilty of infringement if it takes in essence what has been patented. It cannot escape infringement by trifling variations.

Defences

Several grounds of defence are available in a suit for infringement. Some of the most important ones are : (1) absence of infringement; (2) invalidity of the claims alleged to be infringed with or without a counterclaim for revocation of the patent; (3) lack of locus standi of the plaintiff to sue; and (4) estoppel.

It can be safely assumed that every suit for infringement will precipitate a counter claim for revocation of patent whether or not there is any merit in the counter claim. A petition for revocation may also be filed by a third party suo motu. If there is already a petition for revocation pending, the courts will not normally grant any interim order in the favour of the defendant. Therefore, if the plaintiff has a prima facie case of infringement, it should make every effort to obtain an interim order before the defendant applies for revocation of the patent.

Incremental inventions are also patentable.

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. 5 June, 1999	
182641. UWE Vieregge, Germany (396/Cal/94)	A pipe arrangement for sprinkler units.
182642. W Schlaforst AG & Co, Germany (869/Cal/94)	Spool carrier transport device for a textile machine winding yarn into cheeses.
182643. Goldstar Co Ltd, Korea (943/Cal/94)	Invertible air conditioner.
182644. Cincinnati Milacron Inc, USA (992/Cal/94)	Aqueous metalworking fluid having improved resistance to bacteria.
182645. V Govinda Raulu, India (1002/Cal/94)	Repair sleeve for high tension electric line in situ.
182646. Siemens Aktiengesellschaft, Germany (1011/Cal/94)	A switching device with an apparatus for retraction and extension relative to a slide-in frame.
182647. Hirayama Setsube Kabushiki Rai Sha, Japan (143/Cal/95)	Antiseptic clean device for use in a clean room.
182648. Bernd Hansen, Germany & Opto Consult AG, Switzerland (206/Cal/95)	A method for producing a package for medical products and a package produced thereby.
182649. Aromascan PLC, England (710/Cal/95)	A gas sensor.
182650. Leiras Oy, Finland (1071/Cal/97)	A method for making a tubular medicinal capsule installed on a rod-like support.
B. 12 June, 1999	
182651. Shaw Industries Ltd, Canada (866/Cal/94)	A velocity geophone with high resolution linear output signal.
182652. Asahi Kasei Kogyo Kabushiki Kaisha, Japan (396/Cal/95)	Flame retardant high precision resin mechanical part for use in an office automation machine.
182653. Hitachi Ltd, Japan (177/Cal 95)	Centrifugal compressor.
182654. E I Du Pont De Nemours & Co, USA (414/Cal/95)	A process for hydrocyanation.
182655. Yamaha Hatsudoki Kabushiki Kaisha, Japan (48/Cal/95)	An exhaust muffler having enhanced noise attenuation characteristics for a motor cycle.
182656. Koninklijke Philips Electronics NV, The Netherlands (473/Cal/95)	Selective call system and a secondary station for use therein.
182657. Metallgesellschaft Aktiengesellschaft, Germany (745/Cal/95)	A process of preparing a fatty alcohol from a liquid starting mixture.
182658. Svedala Industri (Deutschland) GmbH, Germany (61/Cal/97)	Pocket belt conveyor.

International News

Intellectual Property laws in Tonga have been significantly enhanced. It is now possible to obtain protection for patents, designs, and utility models for the first time in Tonga. Some of the important features of the Act are as follows :

- A patentable invention is defined as 'an idea of an inventor which permits, in practice, the solution of a specific problem in the field of technology.

- The essential requirements for patentability are that the invention be new, involve an inventive step and be industrially applicable. Excluded from protection are:

- a) discoveries/theories/mathematical methods;

- b) schemes/rules/methods of doing business/purely mental acts or playing games;

- c) methods of treatment of the human or animal body by surgery or therapy/diagnostic methods; and

- d) inventions contrary to public order or morality

The term of a patent is 20 years from the date of filing the application.

(Patent World, Issue 109, Feb 99)

According to a draft program and budget presented by WIPO's Director General, WIPO will continue to work with developing countries to further enhance the capacity of national intellectual property systems and promote international and regional co-

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182659. Eisai Chemical Co Ltd, Japan (857/Cal/97)	Process for the preparation of allylquinone derivatives.
182660. ICI India Limited, India (2308/Cal/97)	A process for the preparation of acetyl N, N-diethyldithiocarbamate.
182661. Ormat Industries Ltd, Israel (625/Cal/94)	A method and apparatus for generating combustible gases from a solid fuel.
182662. The Mead Corporation, USA (678/Cal/94)	A roll out dispenser for a beverage carton.
182663. The Babcock & Wilcox Co, USA (1070/Cal/94)	Heat recovery steam generating apparatus and method of generating steam with the use thereof.
182664. Philmac Pty Ltd, Australia (41/Cal/95)	An improved coupling device for outer surface engagement of polymeric pipe.
182665. Tridibendra Narayan Misra and et al, India (42/Cal/95)	Gas/vapour sensing element and method of manufacturing the same.
182666. Electronic Power Conditioning Inc, USA (228/Cal/95)	Unipolar series resonant converter.
182667. Owens-Corning Fiberglas Corp, USA (385/Cal/95)	An apparatus for making dual-component fibres.
182668. E I Du Pont De Nemours & Co, USA (412/Cal/95)	An apparatus for converting a cut fiber of synthetic melt-spun polymer into fiberballs of randomly-entangled fibres.
182669. E I Du Pont De Nemours & Co, USA (676/Cal/95)	A process for electrolessly plating aramid fibres.
182670. Hindustan Lever Ltd, India (1931/Cal/96)	An improved process for the production of a frozen spoonable flavoured water-ice product.
C. 19 June, 1999	
182671. Matsushita Electric Industrial Co Ltd, Japan (529/Cal/94)	Automobile on-board and/or portable telephone system.
182672. Siemens Aktiengesellschaft, Germany (777/Cal/94)	Process for producing steam in a continuous flow steam generator and a continuous flow steam generator for carrying out the process.
182673. Hydra Tools International PLC (960/Cal/94)	A water supply system for a mining machine and a mining machine provided with such a system.
182674. GMZ Holding Company, USA (962/Cal/94)	A method of bonding a flavoured toothpaste composition to the bristles of a toothbrush.
182675. The Babcock & Willcox Company, USA (34/Cal/95)	A once through steam generator.
182676. E I Du Pont De Nemours & Company, USA (83/Cal/95)	A process for preparing coloured polytrimethylene terephthalate (PTMT) fibres.
182677. Wen-Yaun Lee, China (88/Cal/95)	Form set-up with upright form panels to form a concrete unit.
182678. Mark Clayton Carter, USA (93/Cal/95)	Collapsible display table.
182679. NMT Group PLC, UK (964/Cal/95)	A fluid handling device having a need retraction assembly.
182680. Chao-Chi Huang, China (606/Cal/95)	A gin for preparing glass fiber.
D. 26 June, 1999	
182681. The Pullman Co, USA (596/Mas/93)	Tube cutter.
182682. Pattabiraman Radhakrishnan, India (626/Mas/93)	Thermal efficient internal combustion engine.

Contd from... 9

International News

operation. The draft proposes a budget of 409.7 million Swiss Francs for 2000-2001 biennium representing an increase of 8.1% over the 1998-1999 and a reduction in the contribution by member states of 10% below the 1999 level and a proposal to once again lower the fees of the Patent Co-operation Treaty (PCT) by an average of 13% effective from January 1, 2000.

(WISTA Intellectual Property, Vol 2 No 14, May 99)

A US patent (Pat No. 5, 858, 351) has been awarded to Avigen and John Hopkins University for Hemophilia B gene therapy. Lack of functioning factor IX gene is the cause of hemophilia B. The Avigen's adeno-associated viral (AAV) vector will deliver the gene encoding blood clotting factors IX to the patients. The clinical trials for this therapy have already begun at the Children's Hospital of Philadelphia and Stanford University of Medical Centre.

(Genetic Technology News, Vol 19 No 25, 23 June 99)

Royal Mail has launched a new secure e-commerce service for business. The system, called ViaCode, will provide secure proof of identity using a public key infrastructure allied to an encryption technique, and will provide security for Internet e-mail and other commercial transactions over the world wide web. The system can be used to protect web sites and laptop computers.

(Copyright World, Issue 90, May 99)

Incremental inventions are also patentable.

182683. N V Raychem S A, Belgium (630/Mas/93)	A flexible hollow inflatable sealing member.
182684. Rite Products, India (641/Mas/93)	Stretcher cum trolley.
182685. Thirumalai Anandam Pillai, India (650/Mas/93)	An improved battery system.
182686. Mitech Scientific Corp, USA (658/Mas/93)	An apparatus for drying and sterilizing articles.
182687. Kabushiki Kaisha Mino Seisakusho, Japan (664/Mas/93)	Grooved traverse drum for winding yarn on to a bobbin.
182688. Ernest Robert Bodnar, Canada (691/Mas/93)	A rotary apparatus for forming a work piece and a method of manufacturing a workpiece therewith.
182689. Ernest Robert Bodnar, Canada (692/Mas/93)	A rotary apparatus and a method for forming a moving web workpiece.
182690. Plasson Maagan Michael Industries Ltd, Israel (693/Mas/93)	Drinking water dispenser particularly for poultry.
182691. Madurai Gopi, India (845/Mas/90)	Power boat.
182692. Tube Investments, India (668/Mas/92)	A housed high strength core member.
182693. Sony Corporation, Japan (185/Mas/93)	An enclosure for holding a rectangular mini-disk cartridge.
182694. Ernest J Larson, USA (316/Mas/93)	A hauling vehicle convertible between highway and railway use.
182695. CTB Inc, USA (375/Mas/93)	A device for collection of eggs.
182696. T Sendzimir Inc, USA (436/Mas/93)	20- high cluster mills with profile control.
182697. T Sendzimir Inc, USA (437/Mas/93)	A crown adjustment system for a 20 - high cluster mill.
182698. Canon Kabushiki Kaisha, Japan (541/Mas/93)	An ink jet printing method for printing cloth.
182699. Tamminidi Kasi Visweswara Rao, India (543/Mas/93)	An equipment for continuous monitoring of densities of liquid.
182700. Maschinenfabrik Rieter AG, Switzerland (592/Mas/93)	A double apron drafting apparatus for a spinning machine.
182701. Tube Investments, India (639/Mas/92)	A shock resistant chassis for a railway wagon.
182702. Materials Technology Limited, USA (369/Mas/93)	A building with improved building wall & a method of constructing the same.
182703. Institute Francais Du Petrole, France (493/Mas/93)	A controlled pneumatic injection two stroke engine.
182704. Vidamed Inc, USA (579/Mas/93)	Medical probe device for radio frequency ablation of a target volume.
182705. Owens Brockway Glass Container Inc, USA (580/Mas/93)	Apparatus for measuring wall thickness of transparent containers.
182706. Apparatebau Rothemuhle Brandt & Kritzier GmbH, Germany (594/Mas/93)	Regenerative heat-exchanger.
182707. Rosemount Inc, Minnesota (606/Mas/93)	A transducer.
182708. Zellweger Uster Inc, USA (673/Mas/93)	A textile testing apparatus for measuring characteristics of entities in a sample of textile material with entites of fiberneps and trash.
182709. F L Smidth & Co, Denmark (676/Mas/93)	Grate element.
182710. F L Smidth & Co, Denmark (677/Mas/93)	Grate element.

Domestic News

Dr. Reddy's Research Laboratory, Hyderabad has been granted three product patents in United States in the area of cancer and diabetes treatment. A total of 65 patents have been filed by the laboratory in the US since June 1995.

(Journal of Intellectual Property Rights, May 1999)

According to the Annual Report of Department of Space for the year 1998-99, three patent application have been filed during the year. Also three patents have been granted to the department.

These include :

- * An improved process of gold plating on magnesium alloys substrates.

- * A process of black anodising on magnesium alloys.

- * A process of black chromate coating on magnesium-aluminium alloys .

An application for copyright on "Geoimage Software" has also been filed.

Three Indian patents and 2 US patents have been granted to Department of Biotechnology (DBT) in joint collaboration with the host institutions, according to the annual report of DBT for the year 1998-99. DBT has so far filed 31 application in India and abroad.

A US patent has been secured by JB Chemicals & Pharmace-uticals Ltd for a novel metronidazole formulation. The product is a new combination (i.e paired with another molecule) to make it suitable for treatment of both aerobic and anaerobic

contd on...12

Patent is a territorial right specific to a country.

Indian Patent Databases



Following Databases on Indian patents are available with Patent Facilitating Cell on the CDROM discs.

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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-Electrics, Elo-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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Contd from... 11

Domestic News

infections, while the original molecule could treat only the latter. The product was launched six months ago in the Indian market branded Metrogyl-DG (Dental Gel). The brand is relatively small with an annualised turnover of Rs. 1 crore.

(Business Standard, 7 July 99)

The WIPO "Asia-Pacific Regional Forum on Intellectual Property" was organised in Delhi on 7th to 9th July, 1999 by World Intellectual Property Organisation (WIPO), in cooperation with Department of Industrial Development and FICCI. The forum was attended by senior officials responsible for intellectual property rights policies and administration from 22 countries of Asia and Pacific. It examined various issues concerning policy development in the field of intellectual property and stressed the need to facilitate and strengthen cooperation among the developing countries in the Asia-Pacific region in the areas of protection and administration of the intellectual property systems. More importantly, it stressed on the need to protect and preserve traditional knowledge innovation and creativity and to promote the sharing of benefits through the effective use of appropriate intellectual property systems.

(Financial Express, 12 July 99)

The Patent Office, Calcutta has planned to bring out a revised, more comprehensive version of its manual 'General information for filing patent application in India' for a better understanding of the Indian Patents Act of 1970 and the Rules of 1972. The new compact edition of the manual will be ready for distribution by early August.

(Business Line, 19 July 99)

Please send us questions and topics you would like to see in the coming issues

NEXT ISSUE

- Case Study
- Case Law
- Patents for Opposition

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