



A BULLETIN  
FROM  
TIFAC

# INTELLECTUAL PROPERTY RIGHTS (IPR)

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## Harmonization of Intellectual Property Rights System

### Introduction

Multilateralism and globalization are co-producers of each other. The synergy between the two is so intense that one is today witnessing the development of a new world order. In a borderless economy the competition has become severe and companies, corporations and R&D institutions must search for new solutions to beat problems that may have an adverse and immediate impact on their competitiveness and a long term impact on their survival. These are comparatively new issues being faced by developing countries which are trying to move up the value chain and breaking off from the closed economy to enjoy the fresh air of open economy. It is now well understood that solutions to problems and challenges emerging out of globalization will be found in developing innovations in strategies, products, processes, marketing, business methods and so on.

Companies from developing countries have to learn the rules of the new game as they do not have the necessary experience of handling global trade and commerce. It is

clear that the new environment has become very dynamic and complex. One of the major challenges faced by them is developing understanding of the laws of different countries and also using them correctly to their own advantage. The success of a multilateral system depends heavily on formulation and practicing of common rules.

Intellectual property rights have started occupying the centre stage in the global trade and commerce and new issues of IPR are being thrown up due to new technologies and heavy investments made in developing such technologies. The term harmonization could be interpreted by different people to have different meanings. On one extreme it could mean that the laws and their enforcement would be common to all countries opting for harmonization. In other words the uniqueness of the laws of individual country would merge into a common framework. To some it may mean only working out of common procedures and administrative practices. To others it could mean stipulation of common minimum standards to be followed in domestic laws. It may be safe to assume that the degree and extent of harmonization would actually decide

the success or failure of the harmonization exercise.

### Process of harmonization is not new

IPR system has many different forms of protection, which are independent of each other and governed by separate laws. These are patents, copyrights, industrial designs, trademarks, protection of IC lay-out designs, protection of undisclosed information and geographical indications. Sui generis system for protection of new plant varieties is a form of protection not covered under the above headings. In fact, there may be a few more topics like databases, domain names and traditional knowledge which may not be directly covered by these headings. It is very often seen that debates on harmonization tend to concentrate on patents and other forms are not given enough attention. Therefore, for the sake of completeness it may be desirable to spend some time on all the forms.

The foundation of IPR harmonization was laid with the Paris Convention for Protection of Industrial Property in 1883. The Convention applies to industrial property in the widest sense including patents, marks, industrial design,

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trade names, utility models, geographical indications and repression of unfair competition. The Paris Convention commits its signatories to the principle of national treatment, patent independence and a system of international priority. It is interesting to note that the Convention did not attempt to interfere with laws of members but concentrated on facilitating obtaining patents in different countries and created an atmosphere of fair competition.

In the area of industrial design the noteworthy treaties are the Hague Agreement concerning Deposit of Industrial Designs (1934) and Lacarno Agreement Establishing an International Classification for Industrial Designs (1968). In addition to the Paris Convention, there are other treaties which were designed to facilitate obtaining of trademarks and trade names simultaneously in different countries. These are the Madrid Agreement (1891), Nice Agreement concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks (1957) and the Trademark Law Treaty (1994).

The other example of harmonization is the Berne Convention for the Protection of Literary and Artistic Works which came into existence in 1886. The Convention also enunciated the principle that it was not necessary to register a work for obtaining copyright protection. The Berne Convention has been followed by the Rome Convention for Protection of Performers, Producers of Phonograms and Broadcasting Organization (1961),

WIPO Copyright Treaty (1996) and the WIPO Performers and Phonogram Treaty (1996).

Following The World War II global changes to the international patent system proceeded at an accelerated pace. Numerous new treaties now provide inventors with a network of possibilities to obtain rights in many countries. In 1960s Europe was heading towards a European Economic Community which led to the discussions on a uniform patent system for the EC. Following adoption of uniform patent classification system, European states agreed to the 1963 Convention on the Unification of Certain Points of Substantive Law on the Patents for Inventions. This was called the "Strasbourg Convention" which ultimately led to the European Patent Convention (EPC). The EPC allows an applicant to file a single patent application at the European Patent Office which may mature into a number of individual national patents. A similar model in the form of ARIPO was evolved by some African countries. The other well known treaty which was adopted was the North American Free Trade Agreement (NAFTA) which included aspects of IPR. It may be noted that these regional systems could evolve only in the backdrop of identified economic and political needs and agreement to achieve some common economic goals in an environment of mutuality and sharing of benefits.

The Patent Cooperation Treaty (PCT) formed in 1970 was a landmark step toward wider harmonization. India joined the PCT in 1998 and the Indian institutions have been

utilizing the system quite extensively. The advantages offered by the PCT system are not in terms of grant and enforcement of a patent but are in terms of claiming priority in member countries and deferring decision on entering the national phase by 18 months to 30 months. The implied advantage is that an inventor's decision to go in for national phase is based on better search reports and preliminary examination. However, countries having well established facilities for patent and non patent literature searches may not benefit much.

The most important agreement in the process of harmonization is the Trade Related Aspects of Intellectual Property Rights (TRIPS) which has brought out substantive reforms in the laws of the member countries. It provides uniform and minimum legal standards for all forms of IPR. However, there is enough space available for the member countries to frame their own implementation and enforcement mechanisms.

### **The new developments**

The post TRIPS days have seen the birth of a new treaty called the Patent Law Treaty (PLT), piloted by the World trade organization (WIPO). The treaty was adopted on June 2, 2000 after the initial discussions toward patent law harmonization started in 1985. Forty seven countries are members of the PLT. The treaty aims at simplifying and harmonizing administrative practices and procedures among national and regional IP offices. The key results would include simplification of

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requirements for obtaining a filing date, harmonization of requirements that can be requested by national offices with respect to form and content of an application, possibility of extending the priority period and simplification of procedures for transfer of ownership. It is to be noted that the treaty does not interfere much with the domestic laws of the member countries.

As a next step to the PLT, the WIPO has been spearheading a new treaty called the Substantive Patent Law Treaty (SPLT) which would deal with substantive matters related to patents like what can and cannot be patented, definitions of novelty, inventiveness and industrial application, grace period for determining novelty and associated aspects. The SPLT is expected to raise the standards of patenting. For example, there may be a ban on putting additional patentability criteria. The present concern of developing countries about misappropriation of biological materials and traditional knowledge through patents and their preservation and insistence of introducing new disclosure criterion would fall on deaf ears if the SPLT was in place.

Concepts of novelty, inventiveness and industrial application are retained on the same lines as stipulated in the TRIPS. However, the phrase "in all fields of technology" has been eliminated. It has been reported that the USA has proposed that this phrase as it appears in the TRIPS, may be replaced by "in any field of activity". One can clearly relate the proposal with the present US practice of awarding patents to

business methods and new plant varieties. It may be noted that business methods were not granted patents until recently.

The notion of industrial application / utility may undergo some changes. An invention would be industrially applicable if it can be made or used in any industry or it can accomplish a practical application in any field of art. Thus there could be a major departure from the traditional meaning of the word. If the present expression is accepted, it may include all sorts of industries which may not necessarily lead to advancement of scientific and technological knowledge which have been the invisible force driving the patent system.

### Problems in the path of harmonization

There are already many situations in which the developing countries find themselves disadvantaged. Such situations may become very serious if common laws are to be followed which have been designed from the perspective of few developed countries. Some examples of such situations are discussed here.

### Difference in interpretation of the same invention by different patent offices

Differences in interpretation of the same invention by different patent offices are commonly observed in many aspects. Similarly, different offices allow different claims which may be attributed to interpretations dependent on the local laws and practices. Sometimes, the element of subjectivity also comes into play. For example, an invention related to aryl and

hetero aryl compounds preparation by selective dehalogenation was given different IPC (International Patent Classification) codes:

EP 825173A1 C07C-067/317

AU 9733211A C07B-031/00

CA 2212958A C07C-069/76

Obviously, if some one were to search a patent through the IPC codes, it may be difficult to come to the same invention. Such differences may not be only due to variation in the understanding of the classification system but may be also due to the variation in the understanding of the most crucial part of the invention. It may appear surprising, but it is true that written expression of an invention may not be very objective at times, thus leaving room for interpretation.

While allowing claims, one patent office may differ from the other. As an example, take the case patents related to the "nap hal", a wheat land race from India, awarded to Unilever by the EPO and USPTO. The claims allowed by the EPO are very wide and cover wheat varieties similar to "nap hal", whereas the US patent only allows claims related to "nap hal". Believers in complete harmonization would argue that such differences would not exist if a global patent office was in place. However, the questions to be addressed are who will man such an office? What would be the compatibility of decisions of such an office and the enforcement laws of various countries? Would the differences in the understanding of novelty, inventiveness etc. be tilted in favour of a few?

### Differences in understanding of language and problem of translation

English is the most common

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language used in patent applications. Inventors from countries like India are conversant with the language but still may not be familiar with the nuances of various usages. Hence, use of correct words in claims becomes important. Let us not forget that these inventors do not have English as their mother tongue or first language. It is known to the practitioners in this area that claims are dependent on the acceptable usages of words. The use of the word "comprising" provides a very wide coverage to the claims whereas the word "consisting" provides a narrower coverage, although these two words have the same dictionary meaning. Therefore, inventors not knowing the correct use of words are likely to be on a weaker ground when it comes to fighting legal battles. This situation has been in existence for many years and would continue to exist. No solution is in sight. Inventors will prefer to file application in their own language to avoid the disadvantage in a possible legal dispute. This may not be conducive to a global patent system.

The PCT system provides for translating patent applications in different languages and filing them in designated countries. How does an applicant ensure that the translation carried out under the aegis of WIPO is the true translation of the original application and it will stand the scrutiny of the courts in that country in the event of any dispute arising during the term of the patent? This issue has not been addressed in any substantial

manner even 23 years after the installation of the PCT!

### The question of disclosure

The developing countries have been advocating that a patent application dealing with biological materials must disclose the source of the material and the associated knowledge with it that might have been obtained from a community residing in a particular country. One of the basic objectives of this demand is to minimize the piracy of biodiversity and traditional knowledge by those who only believe in trade and do not want to share benefits with the holders and preservers of that knowledge. Biodiversity of each country belongs to that country and is not the property to be exploited by others. The subject matter has been under discussions in WTO, TRIPS Council, WIPO and UNCTAD for the last many years. The Intergovernmental Committee (IGC) set up by the WIPO has produced a large number of excellent studies on the subject but without any conclusions. The IGC has now been allowed to work in an exploratory mode for a few more years. The WTO has not been very receptive to these demands. The draft SPLT, if it is any indication of the thought process of the developed countries, signals a non acceptance of these demands. It states that in respect of the disclosure, no requirement additional to or different from those necessary to carry out the invention by a person skilled in the art should be imposed. In other words, the information regarding biological materials (suggested by developing countries) to be provided as disclosure will not find any place in the scheme of things. Such restrictions will not

allow one to practice laws, which are in the interest of preservation and sustenance of one's country's biodiversity, even with in one's own country. Such developments would lead to interference which will not be acceptable to most countries whether developed or developing.

### Enforcement

Enforcement is a resource intensive activity. Larger resources are required if we want to implement higher standards provided that non compliance of standards leads to higher risks to the society. To the extent that enforcement costs are high and budget constraints are tight, laws will be implemented in a different manner by a resource starved country as compared to what would be done by a resource rich country. Therefore, cross country differences in enforcement are bound to exist.

### Discussions

Technology is changing very fast and laws are finding it difficult to cope up with developing technology. In this context developing countries have a distinct disadvantage. Take the case of new plant variety protection. The USPTO had maintained a dividing line between Plant Breeders rights (PBR) and patents by stipulating that sexually reproduced plants would not qualify for patents. In a recent judgment by the US Supreme Court, it has been held that there cannot be a dividing line as stipulated by the USPTO as the US laws do not differentiate between sexually and asexually reproduced plants for the purpose of patents. In other words patents will be granted to all types of new plant variety. What happens to UPOV in that case? Chances

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### Harmonization .....

are that countries following the PBR system would be persuaded to switch over to patent system in the foreseeable future. Wouldn't such developments force developing countries to apply the criterion of food security and make a fresh assessment of the emerging situation? Similar situations in terms of patentability have been observed in respect of software, biotechnology, genetic material etc. By introducing a global harmonization, there would be tremendous pressure on developing countries to accept, adopt and follow what really does not belong to them and what is not within their scheme of things. A fundamental question bothering many would be: what would be the impact of harmonization on the civil laws of a country?

Of late, IPR system has been pursued with a single minded goal to utilize the system for trade and commerce. Other aspects, which are of long lasting nature, like encouraging innovations in human society and excluding discoveries like scientific principles from patentability are being diluted. It would be interesting to recall that the English Parliament while enacting the Statute of Monopolies in 1624 declared that letters of patent and grant of privilege would be valid for a maximum of 14 years and the invention would be worked within the country. Prior to this statute the term was longer and the Crown had a history of awarding importation franchises and other exclusive rights. There would be many examples of similar nature when States had to take corrective action in public

interest by enacting new laws. The protagonists of unified system had themselves followed the path of sovereign liberty to make domestic laws to suit their own needs. This freedom is relevant even today for both developed and developing countries. The spirit of safeguarding public interest cannot be diluted for the sake of trade interests. The Cancun meeting did not succeed mainly because the interests of developing countries were grossly neglected. Apparently, the situation became serious enough for the developed countries to signal that they would start opting for non-multilateral systems. Whether it will ever happen or not, is difficult to predict. However, multilateral system will benefit all provided aspirations and needs of all are looked after.

IPR regimes should accommodate the progressive maturation of a production and innovation base as each country may have its unique innovation system which could be at different stages of development in different countries. There is a need to understand that a uniform IPR system may not suit the needs of many countries. Changes in IPR system should not be unidirectional or patterned after an individual model, namely that of countries that are at the frontier of property rights legislation and enforcement. Further, there would be little acceptance of a system which promotes convergence in order to provide better level of protection for developed countries. Major differences in the level and scope of protection have been removed among

countries which are signatories of the TRIPS Agreement. However, there are differences in enforcement and the way violations are penalized. These aspects are generally defined by the socio-economic needs, political compulsions, need for promoting technology at a lower cost and many other factors specific to a country. It is meaningless to emphasize that the laws of a country seek to provide maximum benefits to its people and society. Extreme positions may not assist in finding solutions to problems arising out of multilateralism because none will help the cause of such a system. A balanced approach is called for which would perhaps demand that the harmonization of IPR system should be based on the following:-

1. It should be based on common principles acceptable to all countries.
2. It should be driven by the spirit of facilitation of trade and not by the desire of controlling and monopolizing trade.
3. It should honour the mutuality of interests.
4. It should help in avoiding unfair competition and providing a near level field to all.

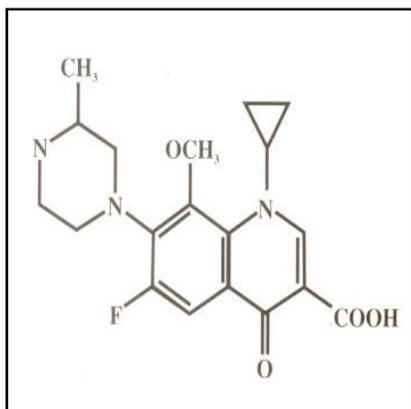
Some degree of harmonization of IPR systems among nations cannot be overlooked by any nation interested in having a share in the global trade. Some countries may have a vision of a truly global patent system, with one central office issuing patents valid in any country in the world. The question, however, remains as to what should be the extent, scope and degree of harmonization, which would be acceptable to all and not interfere with sovereignty of nations.

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## Case Study

### Taste masked formulation for paediatric use

A US patent (6,589,955) has been granted to Bristol-Myers Squibb for a paediatric oral dosage formulation containing gatifloxacin, which is a broad-spectrum quinolone antibacterial. This category of drugs has bitter taste and hence is at a disadvantage for paediatric use. Masking the bitterness of the drug is a challenge before the pharmaceutical industry. It is used for treatment of infection resulting from broad spectrum of microorganisms, including antibiotic-resistant strains of *Streptococcus pneumoniae*, and possesses excellent overall tolerability. Gatifloxacin, chemically, 1-cyclopropyl-6-fluoro-1,4-dihydro-8-methoxy-7-(3-methyl-1-piperazinyl)-4-oxo-3-quinolinecarboxylic acid, is represented by the following structure:



### Background and prior art

Gatifloxacin is useful for treating infections in children. Liquid dosage forms are invariably preferred for paediatric use for ease of administration. The oral form could include those constituted from dry powder or granules. However any such formulation

should have acceptable taste to children. Typically, such liquid preparations are available in the form of powders or granules that are mixed with water by a pharmacist at the time of dispensing to form a suspension in a flavoured vehicle. The fine particles or granules of active substance in such preparations must either remain suspended in the liquid vehicle or be readily re-dispersed therein simply by shaking the container. As the particles/granules have to be very fine for a good suspension, the integrity of particles/granules becomes an important issue. Leaching of therapeutic agent by saliva will negate the acceptable flavour of the preparation.

Regardless of the numerous techniques and pharmaceutical adjuncts known in the art to mask the taste of bitter-tasting medicaments, there remains the need to find an effective technique, adjunct or combination thereof for specific agents. This has been the case with gatifloxacin, particularly with regard to preparations that would be suitable for pediatric administration. Such preparations are provided in accordance with the present invention. It will be appreciated that, while the usefulness of the taste-masked gatifloxacin formed in accordance with the present invention will be emphasized in regard to pediatric medicine, it is also useful for preparations intended for all patients who, as a result of physical challenge or preference, would prefer a liquid preparation. The taste-masked gatifloxacin of the invention is further advantageous in that constituted liquid preparations made therefrom are

stable over the normal therapeutic dosage schedule, typically fourteen days.

### Present Invention

Gatifloxacin is formed as a co-precipitate with at least one of stearic acid and palmitic acid in a critical weight ratio. The weight ratio of the two constituents is essential to the advantageous properties of taste-masking and stability of formulations containing it. The present invention further pertains to a process for the preparation of taste masked gatifloxacin, pharmaceutical formulations containing it and the use thereof in the treatment of a wide of infections.

Crystalline forms of gatifloxacin reported in the literature, i.e. the hemihydrate and the sesquihydrate, differ in characteristics and crystalline structure. Although another crystalline form of gatifloxacin could be utilized for the preparation of the subject co-precipitates, the preferred form is the sesquihydrate. The preferred co-precipitant in accordance with the present invention is stearic acid. Crystalline co-precipitates formed in accordance with the present invention have been found to be superior to other recognized mechanisms of combining gatifloxacin with stearic acid, palmitic acid or mixtures thereof in terms of physical characteristics, including stability, and particularly taste-masking. Such other mechanisms include forming a physical mixture, wet or melt granulation and coating of particles of gatifloxacin with the subject fatty acids.

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It has been found in the present invention that a particular narrow weight ratio of gatifloxacin to stearic acid produces optimum parts in comparison to ratios that vary the percentage of the components in favor of one component or the other. While it is known that stearic acid and palmitic acid have been utilized to form taste-masked forms of other therapeutic agents, it is considered unexpected that the form of gatifloxacin formed in accordance with the present invention possesses significant advantages in comparison to similar forms prepared utilizing other fatty substances, by other mechanisms and even wherein the two components are present in different weight ratios.

As noted below, however, while taste is an extremely important characteristic of the subject coprecipitates, it is not the only factor to be considered.

### Example

Preparation of Gatifloxacin-stearic Acid Crystalline Co-precipitate (1:2.1 by Weight)

A 3-necked 500-ml reactor equipped with a mechanical agitator (57 mm Teflon paddle impeller), condenser, heating mantle, and cooling bath was charged with 12.776 g of gatifloxacin sesquihydrate and 27.225 g of stearic acid to which was added 240.0 ml of ethanol, 95% USP. The mixture was heated with agitation to obtain a full reflux (-80. degree. C.) to dissolve the solids. The resultant solution was heated at re-

flux with stirring for 2.0 hours. The solution was slowly cooled to 18.degree. C. at a cooling -bath rate of 0.25. degree. C.per minutes with gentle agitation (80-rpm). Total crystallization required about four hours with solids becoming clearly visible when the solution reached 32.5.degree. C. At the onset of crystallization, the batch temperature rose from 32.5.degree. C. to 35.degree. C. over a period of about five minutes. After this mild exotherm, typical of crystallization procedures, cooling resumed to the desired temperature. The slurry was mixed for a further two hours at 18°C after which the agitation rate was increased to about 300 rpm for about 1 minute to maximise batch homogeneity and consistency. The slurry was filtered under vacuum on a 7-cm Buchner funnel fitted with Whatman 4 paper filter media. The reactor was rinsed with only re-circulated mother liquor to discharge the solids therefrom. The wet cake was allowed to drain well by vacuum aspiration and then oven-dried using a 30-in Hg vacuum at 30. degree.C. (maximum) until the moisture content by KF attained a value of 1.5% w/w or less. The yield was 37.15 g (36.59 g corrected 29-78 mm, 93.4% w/w) of stearic acid-gatifloxacin crystalline co-precipitate with a KF moisture content of 1.5%w/w.

### Claims

The patent has 23 claims. Some major claims are reproduced below:

1. A crystalline co-precipitate of gatifloxacin and a fatty acid se-

lected from the group consisting of stearic acid, palmitic acid and mixtures thereof, wherein the weight ratio of gatifloxacin to said fatty acid is from about 1:1.8 to 1:2.3.

2. A crystalline precipitate in accordance with claim 1, wherein the weight ratio of gatifloxacin to said fatty acid is about 1:2.1.

3. A crystalline co-precipitate in accordance with claim 1, wherein said fatty acid is stearic acid.

4. A crystalline co-precipitate in accordance with claim 2, wherein said fatty acid is stearic acid.

5. A crystalline co-precipitate in accordance with claim 1, wherein said fatty acid is palmitic acid.

6. A process of forming a crystalline co-precipitate of gatifloxacin and a fatty acid selected from the group consisting of stearic acid, palmitic acid and mixtures thereof comprising.

a. dissolving gatifloxacin and said fatty acid in a weight ratio of from about 1:1.8 to 1:2.3 in a suitable solvent with heating to reflux temperature to effect solution thereof;

b. refluxing said solution for from two to three hours with stirring;

c. slowly cooling said solution with stirring to about 18.degree.C. over a period of from about 2.5 to 4 hours to precipitate the crystalline co-precipitate of gatifloxacin and said fatty acid;

d. maintaining the resultant slurry of said crystalline co-precipitate to about 15.degree. C. to 20.degree.C. for an additional two to four hours ; and

e. recovering and drying said crystalline co-precipitate.

## The Geneva Act

An industrial design is the ornamental or aesthetic aspect of a useful article, in other words, that aspect which makes the article attractive and appealing. It may consist of three-dimensional features, such as the shape or surface of an article or two-dimensional features, such as patterns, lines or colors. These features add to an article's commercial value and increase its marketability. An industrial design is essentially non-functional; it is something primarily of an aesthetic nature, and does not relate to technical features of an article.

Industrial designs are applied to a wide variety of industrial and handicraft products : from technical and medical instruments to watches and jewelry; from household goods and electrical appliances to vehicles and architectural structures; from textile designs to leisure good.

The system of international registration of industrial designs under the Hague Agreement enables designers to obtain protection quickly and inexpensively in several countries through a single procedure, thus enabling them to enjoy the above advantages in overseas markets with a minimum of time and expenditure.

The Hague system offers users a simple and cost-effective way to obtain protection for their industrial designs in any or all of the states, which are party to the agreement by making a single international deposit. Without the system, separate applications would have to be filed in each of the countries in which protection was sought. This is because, as a general rule, industrial design protection is limited to the territory of the country where protection is sought and granted.

The Geneva Act will enter into force on December 23, 2004 for the following countries which have, so far, acceded to it : Estonia, Georgia, Iceland, Kyrgystan, Liechtenstein, Republic of Moldova, Romania, Solvenia Spain, Switzerland and Ukraine.

The new Act introduces a number of important changes to the Hague system for the registration of industrial designs. To date, this has been governed by the Hague Act (1960) and the London Act (1934) concerning the International Deposit or Industrial Designs. The Geneva Act enhances the existing system by making it more compatible with the registration system in countries such as the United States and Japan where protection of industrial designs is contingent on examination to determine the acceptability of an application. The Geneva Act seeks to broaden the geographical scope of international design registrations.

Under the new Act, contracting parties have a period of six months to examine whether a new international registration can be granted protection in their territory. This period may be extended by a further six months for those contracting parties whose law requires examination of the novelty of the registered design. It also introduces a modified fee system, the possibility of deferring publication of a design for up to 30 months and the ability to file samples of the design rather than photographs or other graphic reproductions. The latter features are of particular interest to the textile and fashion industries.

*(Source: World Intellectual Property Organisation)*

## International News

● The United States has expressed deep concern over efforts by some World Trade Organization (WTO) members, primarily some European Union nations; to "substantially" change the standards for protecting intellectual property rights for geographical indications. The revisions sought by some US trading partners in the WTO would undermine the "valuable" intellectual property rights by treating GIs solely as trade interests and ignoring intellectual property principles. Although the TRIPS agreement establishes minimum standards, it does not lay down the system to protect GIs.

**(National Herald, July 24, 2003)**

● The US Patent and Trademark Office (USPTO) has granted patent rights on traditional knowledge of the usage of pigeon pea extracts and ngali nut oil for treating several diseases. The USPTO has granted three patent rights (nos. 6,410,596; 6,541,522 and 6,542,511) to Insmed Inc for its 'novel invention of pigeon pea extracts' for treating diabetes, hypoglycemia, obesity and arteriosclerotic cardiovascular disease (clogged arteries). It has also awarded patent rights (6,395,313) to Australian entrepreneur Queen Slander Peter Hull for using ngali nut oil for treating arthritis. Ngali nut trees are grown on the Solomon Islands, Vanuatu, Papua New Guinea, and the Philippines; and one of its variety canarium indicum is grown in Sri Lanka and South India. Pigeon pea with its botanical name *cajanus cajan* is commonly known as 'arhar' or red gram in the country.

**(The Financial Express, August 4, 2003)**

● Two biotech firms in the US have claimed that after they have

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## Litigation Watch

■ The European Union is taking 8 countries to Court over their failure to adapt their national patent laws. The eight countries are Germany, Austria, Belgium, France, Italy, Luxembourg, the Netherlands and Sweden. According to EU, their failure to implement the EU directive had created trade barriers and hampered the internal market. Also non-implementation is putting the European biotechnology sector at a serious disadvantage. The EU had adopted strict ethical rules for patenting biotech inventions in 1998 and gave member states the deadline of July 30, 2000 to transpose them into national law.

■ Software giant Microsoft has been ordered by a US court to pay \$520 million in a lawsuit that claimed its Explorer Web Browser infringed a patent for sending software applications over the Internet. Michael Doyle filed the lawsuit, which sought \$1.2 billion, in 1999. The plaintiffs claimed that the invention had been pivotal in permitting Microsoft to compete against the Netscape Navigator Web Browser, currently owned by AOL Time Warner Inc. *The award was based on a calculation of \$1.47 for each copy of Windows sold from the time the patent was granted until September 2001.*

Gillette, world's biggest razor maker, has sued its closet rival Energizer Holdings. Gillette has alleged that Energizer's new four-blade razor, set for launch in

September, used the same technique to stack blades as Gillette's best-selling Mach 3 razor and is suing for alleged patent infringement. *Gillette claims it spent \$750m to develop Mach 3.* The company is seeking preliminary and permanent injunctions and triple damages.

■ Barbara Taylor Bradford has lost her battle to prevent the broadcast of an Indian television series *Karishma: A Miracle of Destiny*, that she claimed violated the copyright of her novel *A Women of Substance*.

■ A recent decision by the German Federal Supreme Court has made it clear that where an internet version of a newspaper has made information public, so called "deep links" (hyperlinks) to such information do not violate copyright, database rights or unfair competition law. The action was brought by a German newspaper against a service provider offering a daily e-mail information service based on specific search terms. The search results contained deep links to newspaper articles and keywords and citations from such articles. The court held that enabling such direct online access to the articles does not infringe copyright, since the newspaper itself enables the use of the newspaper articles by making them available online.

■ The SCO Group, a small company based in Lindon, Utah has filed a suit against IBM alleging that IBM

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International .....

received US patents the value of their shares have gone up. Alltracel, a biotech firm, whose core product is a blood-stopping agent used in wound dressing has been granted patents for anti-bacterial and cholesterol-reducing version of the treatment. Its shares have gone up by 15 percent. Oxford Biomedica, which is developing gene therapy for the treatment of cancer and neurodegenerative diseases such as parkinson's received a US patent for a gene delivery technology. Its shares rose 3 per cent.

● The Bayer's Group has signed a patent and technology licensing agreement with Sontra Medical Corporation. Under the terms of the agreement Bayer's has been granted exclusive worldwide rights to the intellectual property in Sontra's Sonoprep ultrasonic skin permeation technology for the continuous non-invasive glucose monitoring field. Bayer's has agreed to pay Sontra \$1-5 million in exchange for this exclusive license.

● A German inventor has won a patent for a method of verifying that fingerprints are from living human skin. The invention makes sure that finger prints are not of fake fingers or cut-off fingers.

● Republic of Korea has acceded to the Madrid Agreement concerning the International Registration of Marks, raising the number of participating countries to 57. The Madrid Protocol is an international trademark registration system facilitating cost effective and efficient way for trade mark holders to ensure protection of their marks in all other member countries.

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## Litigation .....

had violated its contract with SCO by copying code from the Unix operating system to Linux, which is distributed free and is used by IBM on some of its computers.

■ The San Jose based online auction house eBay has been fined for infringing a patent on the procedures its customers use to register online bids backed by credit cards. eBay has to pay a fine of \$35 m.

■ The Federal District Court in Richmond, Virginia has entered two orders on in the patent dispute between NTP Inc. and Research In Motion, Ltd., (RIMM) over RIM's Blackberry products, software and services, The first order specifies an award of \$8,868,360 in enhanced damages for past infringement. The Court also ordered that post-verdict damages be enhanced by a factor of 0.5 and the Court awarded NTP 80 percent of its more than \$5 million attorneys' fees. To date the total of damages, enhanced damages, attorney fees and interest is about \$ 50 million.

■ Trial proceedings have started in a patent-infringement case between Dutch PC maker Tulip Computers International against Dell Computer. Tulip filed suit in November 2000, accusing Dell of infringing on its patent for motherboard design. Tulip is seeking unspecified royalties. The patent at issue in the case covers the placement of an

expansion card slot in a motherboard that enables PC makers to create desktop computers that are smaller, have a more efficient cooling system, and can communicate more effectively with connected devices. Tulip said Dell has used the patented technology in its OptiPlex machines, the company's corporate desktop line. Tulip claims the infringement has resulted in more than \$ 17 bn worth of sales for Dell.

■ Korean and Japanese companies investing in China are troubled with the IP infringements in China. According to KOTRA (Korea Trade-Investment Promotion Agency), in a survey conducted at the end of last year by the Japanese Intellectual Office of 418 Japanese companies that invested in China, 54.3% of the companies were found to have damage from the counterfeit product circulation.

■ Dabur India Ltd. has sued pharmaceutical company Ranbaxy Laboratories in the Delhi High Court seeking to restrain Ranbaxy from telecasting a commercial Pepfiz comparing its anti-gas product with, Dabur's products Pudinhara and Hajmola.

■ The United States District Court has sentenced a video pirate in its first known prosecution under the Digital Millennium Copyright Act for crimes related to circumventing security devices. District Court Judge sentenced Mohsin Mynaf of California to 24 months in federal prison, and a three-year term of supervised

Contd on...11

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## International .....

● An IP Academy is going to be established in Singapore for providing continuing education and learning opportunities to the IP professionals, business and research organizations and establishing research programmes to keep the IP academic training to a broader scale. The IP Academy is envisaged to be the focal point of IP education and training.

● Immtech International Inc has announced new patents on compounds to treat infectious diseases. Immtech focuses on the commercialization of oral treatments for infectious diseases such as pneumonia, fungal infections, malaria, tuberculosis, hepatitis and tropical diseases such as African sleeping sickness and leishmania. Immtech has filed 175 patents covering diatomic pharmaceutical platform, of which 101 have been granted in the US and overseas.

● Wrigley, the world's leading chewing gum manufacturer has patented a form of gum containing the active ingredient in the popular anti-impotence drug viagra. The gum patented in November 2000, would contain up to 100 milligrams of sildenafil citrate.

● The UK government and the British film industry have set up task force to tackle piracy of films. The body will be chaired by UK Film Council Director and will include representations of film producers, distributors and cinema owners.

● Australia's Department of Communications, Information Technology and the Arts has published an online Digital Rights Management Guide to help multimedia creators and developers

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### Litigation .....

release. He was also ordered to undergo, a \$ 1,600 special assessment, and pay approximately \$201,738.70. As part of his plea agreement, Mr Mynaf agreed to the forfeiture of the equipment he used to commit the copyright violations, the forfeiture of \$ 5,000 and the destruction of a substantial amount of property used to commit the copyright violations.

■ A book which allegedly copied the plot and characters of the UK best-seller "Harry Potter and the Philosopher's Stone" has been blocked from publication following an injunction awarded in the Amsterdam District Court. This case represents the first criminal conviction and sentence in California under the Digital Millennium Copyright Act, and is the first known prosecution targeting the circumvention of security measures placed on analogue videocassettes.

■ The US Department of Justice has seized a piracy website and reloaded it with information about copyright law, and the prosecution of piracy. The Department of Justice assumed control of the domain name and website [www.iSONEWS](http://www.iSONEWS), and netizens can now view information about this case as well as general information about copyright infringement and the criminal prosecution of individuals engaged in online piracy.

## Case Law

### Copyright Mystery of Karishma Unveiled

An interesting copyright infringement battle was recently fought in the Indian courts which delayed the telecast of the famous teleserial *Karishma: The Miracles of Destiny* by two months. The *Karishma* teleserial is nowadays being aired on the Sahara Manoranjan from Monday to Thursday at 9.30 PM.

Barbara Taylor Bradford, the well known New York based novelist, sued Sahara TV, alleging that its television series, *Karishma: The Miracles of Destiny* infringed copyright in her novel *A Woman of Substance* and in subsequent novels in which she had developed the story of one Emma Harte's improbable rise to fame.

It all began on May 12, when Mrs Taylor Bradford obtained an interim injunction from the Calcutta High Court restraining Sahara TV from broadcasting *Karishma: The Miracles of Destiny*. Although an authorised mini-series had been broadcasted world wide, Taylor Bradford argued that she had never authorised Sahara to make or produce any serial or film based on the novel, and that the series in question amounted to a reproduction of her copyright works. In support of her claim, she relied on a published interview that had been given by the Producer.

Contd from...10

### International .....

secure and profit from intellectual property used on the internet. The guide aims to reduce the time and effort currently spent in negotiations between copyright owners and users on management of online issues. The guide can be downloaded at [www.dcita.gov.au/drm](http://www.dcita.gov.au/drm).

● The Copyright Licensing Agency Ltd has introduced a new public sector license that is in line with UK government's e-government strategy and adds scanning and electronic distributions to existing photocopying permissions. The license will permit central government departments, public bodies and public sector organizations to make unlimited copies of extracts from the wide range of books, magazines and journals.

● Malaysia's government has moved to control the prices of music, film and computer software compact discs to make them cheaper in an effort to stamp out copyright piracy.

● Entrepreneurs and managers of small and medium-sized enterprises (SMEs) can now consult a World Intellectual Property Organisation (WIPO) publication that explains the basics of trademarks from a business perspective. The guide, entitled "Making a Mark: An introduction to Trademarks for Small and Medium-sized Enterprises", is intended to enhance the reader's understanding of the strategic value of trademarks in business planning. It is the first in a series of new WIPO guides on the theme "Intellectual Property for Business". For more information on the guide visit <http://www.wipo.int/sme>.

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### Case Law .....

On the same day, Sahara Television responded by applying immediately to the Division Bench of the same Court. It set aside the injunction several hours before the series was scheduled to go to air. Sahara TV argued that :

- The story of the serial was original work of Hindi film story writer, Sachin Bhowmick, depicting a woman, played in the serial by Indian film star Karishma Kapoor, who triumphs against all odds.
- 48 episodes of the serial had already been completed and that it had spent millions making and promoting the serial.

Mrs Taylor then filed an appeal before the Vacation Bench of the Supreme Court and succeeded in staying the Calcutta High Court Division Bench Order obtained by Sahara. The case was then sent back to the Single Bench of the Calcutta High Court, which set aside the earlier stay and allowed Sahara to telecast the serial after July 7, 2003.

Mrs Taylor then filed an appeal to the Calcutta High Court on July 2 against the Order passed the Single Bench. After lengthy arguments the Calcutta High Court dismissed her appeal and allowed the telecast of the serial. Further the court ordered the author to pay damages of approximately US\$30,000 per week for preventing the television channel broadcasting the serial for two months. Later the author also applied to the Supreme

Court but it refused to stay the Calcutta Division Bench Order; however the court waived off the costs and damages imposed by the High Court.

An interesting twist in the story came in the form of a criminal complaint for defamation filed in the Mumbai High Court by Sachin Bhowmick. He argued that the script of the Karishma serial was based on his own story, Aparajita and that there were no similarities between his story and the novels of Mrs Taylor Bradford.

The court in this case tried to draw the thin line between the idea and the expression. In line with the copyright laws in other countries, the Indian Copyright Act gives protection to the 'expression' of the idea and concept, and not to the 'idea' or 'concept' itself. The action of Mrs Taylor appears to be seeking protection for the idea or concept rather than its expression because she does not have a monopoly on the story of a woman who achieves fame against all odds. However the question was whether in telling the story the defendant had taken more than the concept and reproduced aspects of the novels' expression.

The court opined that the exclusive right granted under the Copyright Act is infringed only if a substantial part of the work is reproduced.

The court finally decided in favour of Sahara TV, allowed to telecast the serial and rejected the plea of Mrs Taylor Bradford.

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### International .....

● Dutch electronics giant Philips has filed the first fully electronic international application under the WIPO and PCT with WIPO as receiving office using PCT-SAFE software. The availability of this upgraded secure electronic filing facility within the WIPO receiving office means that PCT users can now file their international applications either on-line or using physical media such as CD-R.

● The World Intellectual Property Organisation (WIPO) has extended access to its flagship distance-learning course on intellectual property to Arabic-speaking students. The course is currently available in Chinese, English, French, Portuguese, Russian and Spanish. The distance learning initiative takes full advantage of information technology and the Internet as an alternative to traditional training programs. It offers new teaching methodologies, customized course materials, evaluation tools, and mechanisms for tutor-student interaction. The "General Course on Intellectual Property" takes about 50 hours of study time spanning a six-week period. It includes self-assessment questions, tests, a glossary with links to the 23 WIPO-administered treaties and a full range of other intellectual property information materials. Students who successfully complete the course are awarded a WIPO certificate.

● After an amendment in the German Copyright Act, a teacher can make an academic paper for educational purposes accessible to his students via computer. Earlier the teacher could only distribute the copies of the paper to the pupils.

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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

#### A. July 5, 2003

190211 Know Oy Of Munkkiniemen Puisotitie  
Finland 1085/Cal/96

190212 Samsung Electronics Co Ltd Korea  
1145/Cal/97

190213 Johnson & Johnson Vision  
Products United States Of America  
1537/Cal/96

190214 Schock & Co Gmbh Of Gmunder  
Strasse Germany 1482/Cal/96

190215 Siemens Aktielgesellschaft Germany  
1675/Cal/96

190216 Thomson Consumer Electronics  
United States Of America 1782/Cal/96

190217 Borealis A/S Denmark  
1785/Cal/96

190218 Siemens Germany 1901/Cal/96

190219 The Trustee Of Princeton University  
United States Of America 7/Cal/97

190220 Murata Manufacturing Co Ltd Tokyo  
409/Cal/97

190221 Matsushita Electric Industrial Co  
Japan 1149/Cal/96

190222 Schweitzer Engineering Laboratories  
Inc Usa 1562/Cal/96

190223 Mcneil Ppc Untied States Of America  
1865/Cal/96

190224 Siemens Aktiengesellschaft Germany  
2038/Cal/96

190225 Edmeston Ab Sweden  
2080/Cal/96

190226 Merck Patent Gesellschaft Mit  
Bercharakter Haftung Germany 2117/  
Cal/96

190227 Mathushita Electric Industrial Co  
Ltd Japan 2227/Cal/96

190228 Innovation 2 Market Limited United  
Kingdom 240/Cal/97

190229 Nalco Chemical Company Usa 502/  
Cal/97

190230 Samsung Electronics Co Ltd Korea  
1221/Cal/97

190231 Alledsingal Europe Services  
Techniques France 1135/Del/93

190232 The Procter And Gamble Company  
Usa 0061/Del/94

190233 Tencel Limited Street London 533/  
/Del/94

### INVENTION

A traction sheave elevator

Integrated optic polarization device

A mold material constituting a mold half  
for use the production of contact lenses  
Integral board like component and  
process for its production  
Contact assembly for a distributor in a  
telecommunications system  
A caller id system

A processor producing propylene polymer  
or copolymer particles by (co) polymerizing  
propylene  
Chip module

A process for preparing a photovoltaic  
device  
An s/n (signal to noise) enhancer

Microwave heating apparatus

A circuit capable of suppression of arcing  
across electrical switching contacts

An absorbent feminine hygiene product  
and a method of producing it

A system for matching adaptive radio  
subscriber stations to transmission  
networks

Heat exchanger adapted for the production  
of carbon black

Process for preparing recombinant proteins  
in e coli by means of high cell density  
fermentation

Microwave heating apparatus

A method of producing a member capable  
of being optically monitored an apparatus  
for producing such a member and a member  
so produced

Process for producing water soluble  
anionic dispersion polymers

Device for locking front door of tape  
recorder and tape recorder incorporating  
said device

A mechanically actuated drum brake fura  
vehicle

A sanitary napkin

Method for the production of lyocell  
filaments from a solution of cellulose in  
an organic solvent

## Domestic News

India and Brazil have rejected the US demand to give a written undertaking against possible misuse of the TRIPS-Public Health Agreement under which WTO members can issue licences for production of patented drugs to tackle issues of public health, endemic and pandemic diseases. The duo, whom the American pharma lobby sees as a direct threat to their sales in third world countries, have also rejected a possible statement from the chairman of the fifth WTO Ministerial in Mexico asking the two countries with "excess capacities" to refrain from any possible misuse.

**(Hindustan Times, Aug. 5, 2003)**

A hybrid poppy plant, developed in India, has been patented in the United States. Named "Rakshit", the variety has been developed from disease resistant and high-yielding genotypes by scientists of the Central Institute of Medicinal and Aromatic Plants, Lucknow. The hybrid plant had shown high resistance to downy mildew and was moderately resistant to damping off and collar rot.

**(National Herald, Sept. 7, 2003)**

The Planning Commission has said that India needed to adopt pro-active approach to encourage patenting. This has become important as the institutional structures are preventing others from securing intellectual property rights on Indian products and traditional knowledge.

**(The Financial Express, Sept. 27, 2003)**

The Geographical Indications of Goods Act, 1999 and the Trademarks Act 2000 have come into effect on September 15, 2003.

**(The Economic Times, Sept. 16, 2003)**

The Intellectual Property Appellate Board in Chennai would now be operational, with Justice S Jagadeesan as its Chairman. Benches of the Appellate Board would also sit in Ahmedabad, Delhi, Mumbai and Kolkata in addition to Chennai.

**(The Economic Times, Sept. 16, 2003)**

*Contd on...14*

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190234 Alcan International Limited Canada 604/Del/94	An apparatus for separating solids suspended in an incoming pressurized liquid slurry A refrigerator
190235 Samsung Electronics Co Ltd Korea 850/Del/95	
190236 Propei Patnership Jeursalem 879/Del/95	An electric auxillary drive for pedal driven road vehicles
190237 Crs Holdings Inc A Corporation USA' 939/Del/95	A process of making high strength iron cobalt vanadium alloy article
190238 Council Of Scientific And Industrial Research New Delhi 957/Del/95	An improved process for the preparation of cyanopyridines
190239 Council Of Scientific And Industrial Research New Delhi 963/Del/95	A process for the preparation of crystalline vanadium silico aluminophosphate catalysts useful for acid catalysed reactions
190240 Daicel Chemical Industries Ltd Japan 1032/Del/95	A process for producing high purity acetic acid
190241 Bakhtawar Lal Sood Jaipur 876/Del/94	A device for use to stop the unwanted reading by the water meter
190242 Westinghouse Air Brake Company United States Of America 1079/Del/94	An improved slackless type darbar assembly
190243 Westinghouse Air Brake Company United States Of America 1080/Del/94	
190244 Flex Industries Limited New Delhi 1325/Del/94	A female connection member for use in an improved slackless type drawbar assembly
190245 Pureline Treatment Systems California 1353/Del/94	An improved pouch with inbuilt guided outlet path
190246 Erricson Ge Mobile Communications Calrolina 1399Del94	An electrolytic cell for generating a mixed oxidant gas
190247 InternationalBusinessMachines Corporation New Yok 1532/Del/94	A computing apparatus
19024Honda GikenKogyoKabushikiKaisha ACorporation Tokyo 1586/Del/94	A computing device for presenting dynamic data on a display
190250 Council Of Scientific And Industrial New Delhi 1621/Del/94	Combustion controller of internal combustion spark ignition type two cycle engine
190251 Honda Giken Kogyo Kabushiki Kaisha Tokyo 1633/Del/94	A composition useful for making a water filter candle
190252 Rhone Poulenc Chime France 1655/ Del/94	A seal for covering and sealing a shaft passing surface of a bearing boss portion with a seal cap
190253 Rollatainers Limited Harayana 1670/Del/94	A process for the preparation of lactam
190254 Paul Wurth Sa A Company 17/Del/95	
190255 Zeneca Limited Laondon 88/Del/95	A device for use in a carton filling and sealing machine for fixing the spout in a carton
190256 Long Hsiung Taiwan 146/Del/95	Device for the distribution of bulk materials
190257 Steel Authority Of Indian Ltd New Delhi 172/Del/95	
190258 The Chief Controller New Delhi 188/Del/95	A dispersion composition and a process for manufacturing the sa
190259 Indian Institute Of Technology New Delhi 254/Del/95	A syringe for intravenous injection
190260 Voest Alpine Industrieanlagenbau GmbH Barbados 76/Del/95	
190261 Prof. Dr. Siegfried Peter German 521/Bom/97	An improved door of a coke oven
190262 Gp Nauthschno Issledovatelsky Institute Russia 665/Bom/97	A light weight portable modular reusable bridge
190263 Hindustan Lever Limited Maharashtra 733/Bom/97	A catalytic convertor
190264 Institute For Plasma Research Gujarat 39/Bom/98	An apparatus and a process for producing reduced particulate oxide containing material in particulate fine ore
190265 Institute For Plasma Gujarat 40/Bom/98	Method for producing fatty acid esters
	Electric machine with permanent magnets and method of assembling thereof
	Antiperspirant or deodorant compositions
	A process for nitriding substrate and an apparatus thereof
	A process for nitriding a plurality of substrates and an apparatus thereof
	An improved composite indentation

*Contd from... 13*

**Domestic .....**

A core group has been set up to consider amendments to the Copyright Act. The copyright division has started the exercise of amending the Act to bring it in consonance with WIPO Copyright Treaty 1996 and WIPO Performance and Phonogram Treaty 1996 and the TRIPS Agreement.

**(The Financial Express, Aug. 19, 2003)**

In a bid to persist with its strategy of blocking the historic decision of the WTO to let public health concerns override patents, the Big Pharma in the US, led by world's largest drug maker Pfizer, has proposed that India and Brazil, along with a few other countries including Singapore, should be totally barred from compulsory licence perse, that is, even for the domestic market operations. Indian pharma industry and the government have therefore, promptly rejected the new proposal which is meant to empower countries with pharmaceutical manufacturing capabilities to make and export generic versions of patented drugs under compulsory licence to countries with insufficient or no manufacturing capacities.

**(The Economic Times, July 2, 2003)**

Research Foundation for Science Technology and Ecology (RFSTE) has now proposed to challenge the patent recently granted to Monsanto for a new wheat variety, Nap Hal . The patent would be challenged on the ground that there was nothing novel about the variety as it had been developed by cross breeding an Indian variety that had been bred, conserved and grown by farmers here over centuries. Monsanto had obtained the patent from the European Patent Office on the ground that the flour produced from the new variety had a low level of elasticity. The grant of patent to Monsanto was harmful to Indian interests as there was a growing international demand for products such as semi-sweet biscuits, wafers, and

*Contd on... 16*

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## PFC on the move.....

★ PFC organised eight Patent/IPR Awareness Workshops one each at Gurgaon, Jhansi, Dharwad, Trivandrum, Vellore, Parwanoo, Gangtok and Majhitar (Sikkim) during July-September 2003. These workshops were attended by about 900 academicians, representatives from government, industry, R&D institutions and students. The workshops were organised in association with the respective Patent Information Centre (PICs) set up by the PFC. The workshop at Gurgaon was held in association with the Ministry of Small Scale Industries.



*Training on Patent Search in progress at CDAC, Pune*



*Workshop at Vellore Institute of Technology*

A training programme on Patent Searches was organised jointly by PFC and CDAC, Pune on July 26 and 27, 2003 at CDAC, Pune. It was attended by 60 participants from CDAC, academic institutes and industry. Techniques of patent searches, sources for patent searches and its importance were covered through lectures. The second day was totally devoted to hands on patent searches.

★ Fourth interaction meeting of Patent Information Centres (PICs) of PFC was organised on August 5, 2003 in Lucknow and was attended by officers from 13 PICs from 13 States.

★ Eleven patent applications were filed, including three PCT and one US. Ten patent

applications have been accepted for grant in USA, Japan and India.

★ The Advisory Committee for the PFC met in September and decided to file 2 new PCT applications and one geographical indication (GI) application.

★ PFC launched a Women Scientist Scholarship Scheme in September 2002 for providing training to women in patent searches and other patent related matters. Applications were invited from all over the country and after rigorous shortlisting candidates were called for a written examination on September 21, 2003 held at the Kendriya Vidyalaya, New Delhi. The result of the examination has been put on the PFC website [www.indianpatents.org.in](http://www.indianpatents.org.in). Sixty candidates have been called for an interview on November 22 and 23, 2003 in New Delhi.



*Workshop at Dharwad*

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### Patents for .....

190266 Kumar Balram Bhatia Maharashtra  
54/Bom/98

hardness tester with constant load cell  
assembly for rubber and the like  
materials  
Hair treatment composition

190267 Hindustan Lever Limited  
Maharashtra 85/Bom/98

A closure for container and container  
incorporating such closure

190268 Hindustan Lever Limited  
Maharashtra 86/Bom/98

A process for producing washed  
laundry in a washing machine

190269 Hindustan Lever Limited  
Maharashtra 111/Bom/98

A particulate detergent composition  
having a bulk density of atleast 600g/

190270 Hindustan Lever Limited  
Maharashtra 7/5 313/Bom/98

An apparatus for scouring granular  
material or cereals

#### B. July 12, 2003

190271 Buehler Ag Of Ch 9240 Uzwil  
Switzerland 255/Del/95

A process for coating a fabric

190272 Bharat Heavy Electricals Limited  
New Delhi 424/Del/95

An improved process for the preparation  
of crystalline titanosilicate molecular sieve  
A dual plate check valve

190273 Council Of Scientific And Industrial  
Research New Delhi 432/Del/95

A fuel cell apparatus

190274 Goodwin International Limited  
England 564/Del/95

A brush making machine

190275 Energy Research Corporation  
United States Of America 685/Del/95

A creel

190276 Gb Boucherie Nv Of  
Stuivenbergstraat Belgium 725/Del/95

A fabric draw-off device

190277 Kikuchi Kogyo Co Ltd Japan  
773/Del/95

Device for controlling pressure in a  
flowing viscous mass

190278 Starlinger Humer Franz Austria  
1182/Del/95

Improved shampoo preparation and  
process for its preparation  
A grinding machine

190279 Lenzing Aktiengesellschaft  
Austria 1378/Del/95

A refrigeration system

190280 Sunil Khatri Proprietor Udaipur  
(Rajasthan) 2280/Del/95

A method and a plant for the production  
of hot rolled wide strip  
A direct conversion receiver

190281 Sms Schloemann Siemens  
Germany 488/Mas/95

90282 Emerald Enterprises Pty Australia  
489/Mas/95

190283 SmsSchloemann Siemens  
Germany 565/Mas/95

190284 Roke Manor Research Limited  
United Kingdom 578/Mas/95

The rest of the patents notified for opposition till September 2003 can  
be viewed in the Supplement along with this bulletin

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### Domestic .....

other food items made from flour,  
which had low elasticity.

**(The Hindu, Aug. 6, 2003)**

A strong view has emerged that  
India should offer data exclusivity  
to build its image abroad. Industry  
feels that it should do this even if  
the industry is not obliged to offer  
data exclusivity under the World  
Trade organisation (WTO)  
obligations. Three committees were  
set up covering research and  
development (R&D), spurious drugs  
and image building of the industry  
overseas. Active on these  
committees are chief executive  
officers (CEOs) of companies like  
Ranbaxy, Wockhardt, Novartis and  
Alembic as well as officials of industry  
bodies like Organization of  
Pharmaceutical Producers of India  
(OPPI), Indian Pharmaceutical Alliance  
(IPA) and CII). The majority view of  
industry is that even though we are not  
obliged under Article 39.3 of Trade  
Related Intellectual properties (TRIPS)  
to offer data exclusivity, we should do  
this as an image building exercise.  
China and Singapore are already  
benefiting by offering the same.

**(The Financial Express, Aug.  
1, 2003)**

The order of Mother Teresa, the  
Calcutta-based Missionaries of Charity,  
has applied to the Indian Patent Office  
for copyright to Mother Teresa's name,  
as well as that of the order and its logo.

**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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