

## India releases National Intellectual Property Rights Policy

On 12 May 2016, the Indian government approved its first ever National Intellectual Property Rights (IPR) Policy<sup>1</sup>. This National Policy was drafted by an independent IPR Think Tank that consisted of six members, chaired by Justice (retired) Prabha Sridevan. A draft policy was prepared after consultation with IP experts, IP lawyers, academics, scientists, activists and user groups, which was released on 19 December 2014 for public comments. After gathering critical comments and inputs on the draft document at the national level, the policy got a final shape by the IPR Think Tank. The Union Cabinet finally approved the National Policy in May 2016.

The main focus of this policy is related to the slogan 'Creative India, Innovative India', which subsequently is aligned to different government initiatives and missions in recent times that include 'Make in India', 'Atal Innovation Mission', 'Start-Up India', and 'Stand-Up India' promoting creativity, innovation and entrepreneurship in the country.

The guiding principles of the policy are explicitly elaborated in its Vision and Mission statements. The stated Vision of this policy is: 'An India where creativity and innovation are stimulated by Intellectual Property for the benefit of all; an India where intellectual property promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared'. While, the stated mission of the policy is: 'Stimulate a dynamic, vibrant and balanced intellectual property rights system in India to: (a) foster creativity and innovation and thereby, promote entrepreneurship and enhance socio-economic and cultural development, and (b) focus on enhancing access to healthcare, food security and environmental protection, among other sectors of vital social, economic and technological importance.'<sup>2</sup>

The scope of the policy encompasses all legislations related to intellectual property protection for the inventors, creators, designers and entrepreneurs in the country, namely, the Patents Act, 1970; Trade Marks Act, 1999; Designs Act, 2000; Geographical Indications of Goods (Registration and Protection) Act,

1999; Copyright Act, 1957; Semiconductor Integrated Circuits Layout-Design (SICLD) Act, 2000; Protection of Plant Varieties and Farmers' Rights Act, 2001; and Biological Diversity Act, 2002. The policy provides the guided principles of administration of eight aforesaid National Acts. The policy also proposes administration of related IPR Acts from a single line ministry, i.e. Department of Industrial Policy and Promotion (DIPP) under the Ministry of Commerce and Industry. Thus, IP resources under the Copyright Act and the SICLD Act are brought to DIPP respectively from the Ministry of Human Resource Development (MHRD) and the Department of Electronics and Information Technology (DeitY). Henceforth, DIPP will administer, admit applications, and maintain the respective registry for patents, trademarks, industrial designs, copyrights, SICLD, and geographical indications of goods. The ministries, namely, the Ministry of Agriculture and Farmers Welfare, and the Ministry of Environment, Forest and Climate Change continue to administer the IP resources under the Biological Diversity Act and Protection of Plant Varieties and Farmers' Rights Act.

The policy then emphasizes on safeguarding traditional knowledge (TK), genetic resources (GR), traditional cultural expressions (TCE) and folklores, which are essential for maintaining cultural diversity and unique identity of the country and the regions. Here, the policy suggests widening the scope of the existing Traditional Knowledge Digital Library (TKDL) by including different IP resources beyond the Indian systems of medicine.

The IPR policy also recognizes the interests of poor patients in developing countries as identified from its text: 'the contribution of the Indian pharmaceutical sector in enabling access to affordable medicines globally and its transformation to being the pharmacy of the world...'. India is also a signatory to the recently adopted United Nations' Sustainable Development Goals (SDGs). One of the targets of SDG 3 (Good Health and Well-Being) emphasizes on easy and equitable access to medicines and vaccines. The Target states, '3.B Support the research and development of vaccines and medicines for the communicable and non-

communicable diseases that primarily affect developing countries, provide access to affordable essential medicines and vaccines, in accordance with the Doha Declaration on the TRIPS Agreement and Public Health, which affirms the right of developing countries to use fully the provisions in the Agreement on Trade-Related Aspects of Intellectual Property Rights regarding flexibilities to protect public health, and, in particular, provide access to medicines for all'. The majority of critics of this IPR Policy are apprehensive on weak provisions of affordable medicines and seeds in the IPR policy document<sup>3</sup>. Thus, the IP administrators in the country should recognize this provision in SDGs and India's commitments. DIPP should broaden its resources for safeguarding the interests of the poor patients.

The policy also emphasizes on operational strategies in strengthening IP incubation and facilitation centres in different creative and innovative organizations for improving their institutional IP portfolios at par with the global standards. The Atal Innovation Mission also has similar operational objectives. Thus, the IP awareness and capacity development in the industries, MSMEs (micro, small and medium enterprises), startups, R&D institutions, science and technology institutions, universities and colleges are given priority for the early foundation of a holistic and conducive innovation ecosystem in the country. While building strong IP-led cultures in the country, India's economic growth and technological progress would make a significant impact in other areas of human development, such as poverty alleviation and zero hunger.

1. Press Information Bureau, *Cabinet Approves National Intellectual Property Rights Policy*, 2016; <http://pib.nic.in/newsite/PrintRelease.aspx?relid=145338>
2. Department of Industrial Policy and Promotion, India, *National Intellectual Property Rights Policy*, 2016; <http://bit.ly/2c996on>
3. Gopakumar, K. M., *Econ. Polit. Weekly*, 2016, **51**(21), 16–19.

**Anasua Mukherjee Das**, 1320 Purvanchal Complex, JNU Campus, New Delhi 110 067, India.  
e-mail: AnasuaMukherjeeDas@gmail.com