

NEEDED: A PANDEMIC PATENT POOL

Relevant for: Indian Economy | Topic: Issues relating to Intellectual Property Rights (IPRs)

Every April 26, we celebrate World Intellectual Property Day. This year, it was not a day for celebration, but one for reflection and dedication. It provided us an opportunity to reflect upon the role of intellectual property (IP) in the [ongoing health crisis](#) and dedicate IP to finding a solution.

The purpose of creating and recognising patent rights is for the common public good, i.e., innovation should be made public in exchange for a limited monopoly. Thus, patents need to be disclosed to the public in order to enable further research. Should pandemics such as [COVID-19](#) be an exception to this?

[Intellectual Property rights | India remains on U.S. Priority Watch List](#)

For human life to become normal again, vaccines or medicines are the only permanent solutions. However, even by conservative estimates, it will take at least 6-10 months for any vaccine/drug to be available. Even when approval for marketing of a vaccine/drug is granted, it will be impossible for it to be made instantly available across the world. This is because even after approval for commercial production is granted, say, in one country, in order for the product to be available to the rest of the world, approvals will be required in each and every country. Then countries will have to gear up for instant manufacturing and marketing of the drug. For this to happen, continuous dialogue has to take place among innovators, manufacturers and supply chains. This requires massive efforts by private players, governments and international organisations.

With the outbreak of COVID-19, there are several innovations. All these innovations may be the subject matter of patent applications around the world. It will be a few years before patents are even granted. However, friction already exists among various stakeholders. For instance, one country made attempts to obtain exclusive rights to a vaccine being developed. On the other hand, there are also collaborations taking place. However, the spirit of collaborative solutions is only on the anvil. The question that arises is whether the exclusivity that is recognised by patent rights will be detrimental to society. Will patents create roadblocks or is there a solution?

Pandemics need disruptive solutions. Governments and international organisations need to arrive at a consensus in advance to ensure that the system is ready. Procrastination would be disastrous. Creating hindrances through exclusivity claims, in the wake of a pandemic, will result in dividing countries, corporations and international organisations. This will not benefit patients and the world as a whole. If patent owners create impediments on the strength of patent rights, the world will start despising patents and that is not a situation IP owners ought to be in. Under the TRIPS (Trade-Related Aspects of Intellectual Property Rights) regime, there are several tools such as compulsory licensing that are available to ensure access to medicines. However, beyond the laws, society needs to respect innovation. To protect the sanctity and integrity of patent systems, and in order to ensure that an anti-IP sentiment is not generated globally, answers need to be found within the existing regime. In exceptional circumstances such as these, there is a likelihood that societies may resort to extreme steps to protect themselves. Before such ideas are floated, solutions should be created.

[Coronavirus | Government urged to revoke patent on cancer drug](#)

One method by which aggregation and dissemination of innovative products can be ensured is

by creating a patent pool. Patent pools are usually effective in aggregating, administering and licensing patents related to specific areas of technology. Such pools are usually managed by a central agency and the patents which become part of the pool are readily made available for licensing. Some pools even publish the royalty rates payable for such licences. Anyone who wishes to obtain a licence will be able to approach the pool, agree to the terms, and begin to manufacture and sell the products. Such pools are prevalent in, for instance, standard essential patents related to telecom and digital innovations.

At the moment, individual efforts are being made by research organisations to create their own pools. A more fruitful endeavour would be to create a global pool of COVID-19-related innovations, or innovations related to rare pandemics, in respect of vaccines and medicines. This could be managed by a trustworthy international organisation. All countries ought to have the right to implement these innovations without further permission from the patent-holders and without resorting to provisions such as compulsory licensing, state acquisition, etc. Even if royalties are at a minimal level, the revenues would still be in billions of dollars owing to the large swathes of the population affected by the pandemic, who will need to be administered these products.

Also read | [Germany tries to stop U.S. from luring away firm preparing coronavirus vaccine](#)

Creation of a pool and immediate licensing will ensure that there are hundreds of manufacturers across the world. As a result, vaccines and medicines will be quickly available. Some part of the royalties could then be disbursed to patent owners on a periodic basis and some part could be retained to fund further research to deal with such pandemics in future.

Such a pool needs the cooperation of not just countries and international organisations but also the hundreds of researchers, innovators, companies and universities involved. Concerns relating to patents and profits to be earned therefrom should be put aside. The world has to come out of this crisis quickly and patents ought to accelerate rather than impede the path. Combating the crisis and earning collectively is the need of the hour.

Pooling of patent resources is also in line with the Doha Declaration on Public Health which is a part of the TRIPS agreement. This declaration recognises the need for taking measures to 'protect public health' and 'promote access to medicines'.

Public-private partnerships (PPP) need to be scaled up. Creation of the 'PPP-pandemic patent pool' at a global level, to pool all innovations, is the way forward. Let us not wait any longer.

Justice Prathiba M. Singh is Judge of the Delhi High Court and was a member of the IP think tank that drafted India's Intellectual Property Rights policy

Why you should pay for quality journalism - [Click to know more](#)

Please enter a valid email address.

To continue enjoying The Hindu, You can turn off your ad blocker or [Subscribe to The Hindu](#).

[Sign up for a 30 day free trial.](#)

END

Downloaded from [crackIAS.com](#)

© **Zuccess App** by crackIAS.com