# DR. BABASAHEB AMBEDKAR MARATHWADA UNIVERSITY AURANGABAD



**Sagar Collage, Jalna**
**(B.C.A.)**

**A Project Report On**

## Knowledge Society

**Submitted To**

**UNDER THE GUIDANCE OF**

**Dr. Mahajan V.V.**

**Submited by**

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M. Lib. S.Y. IV Sem.

Year 2021-22

Sonaji

Master Of Library And Information Science

(M.LIB)

# CERTIFICATE

This is to certify that, the following student

## Khandare Sonaji Tukaram

Has successfully completed the summer internship project

## Knowledge Society

In the partial fulfillment of the requirement of Master of M.Lib course as expected by Dr. Babasaheb Ambedkar Marathwada University, Aurangabad for Academic Year 2021-22.

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## STUDENT DECLARATION

This is to declare that this Summer Training Project report on "Knowledge Society " is a record of genuine work done by me under the guidance of Dr. V.V.Mahajan. in the partial fulfillment to the requirement for Master of Library and information Science.

I declare that this Summer Training project report is original and not submitted to any other university before.

Sonaji

Signature of the Student:

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Sonaji

(KHANDARE SONAJI TUKARAM)

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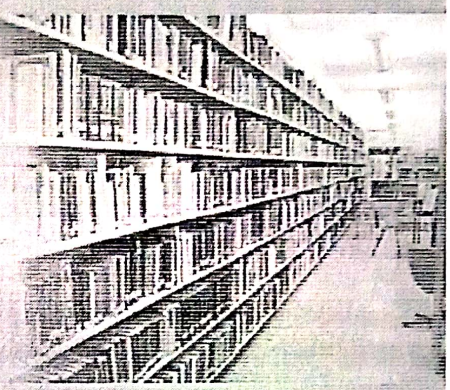

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**Paper No : 01** Knowledge Society

**Module : 11** Information Related Legislation: Right to Information Act and Censorship

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# Module 11: Information Related Legislation: Right to Information Act and Censorship

## I. Objectives

To provide the students with the understanding of

- What is Right to Information Act (RTI)?
- Impact of RTI in the Library and Information Centre
- What is Censorship?
- Major role of library and information professional to make awareness about RTI and Censorship, etc

## II. Learning Outcome

On completion of this module, you are expected to have an idea of the purpose and meaning of Censorship and Right to Information and what these mean for libraries and information services.

## III. Module Structure

1. Introduction
2. Impact of RTI in Library and Information Centres
3. Categories of Information under RTI
4. suo moto Disclosure
5. Exempted Information
6. Censorship
7. What is Censorship?
8. Library Ethos vis-a-via Censorship
9. Forms or Types of Censorship
10. Responsibility of LISP
11. Censorship in LICs
12. Censorship on the Internet
13. Policy Decisions in the LIC
14. Summary

## 1. Introduction

As far as Library and Information Science Professional (LISP) are concerned, "the right to information" can be viewed from two perspectives. The traditional one by which a LISP will have to provide access to the information itself without discrimination while still adhering to the rules and framework of the parent organisation. This is discussed later on when dealing with censorship issues.

The second perspective is a recent one engendered by the "Right to Information Act" (RTI) which became operational on 12th October 2005. The Act mandates timely response to citizen's requests for government information. This has implications for LISP, especially those in a publicly funded setup. The implications are that the LISP should facilitate access to updated RTI material, organize and maintain records in a manner that ensures speedy retrieval and dissemination of the information sought. It must be understood that information, in the context of this lesson, does not refer to the information found in printed material or the Internet, but data generated by the LIC as part of their administrative and managerial activities.

Maintenance of records has always been an integral part of library operations. The importance and method of doing so have been spelt out in detail in the two books "Library Manual" and "Library Administration" by SR Ranganathan. However, the importance and essentiality of such an activity has been enhanced with the RTI.

It is necessary at first to know and understand the RTI as it is an all-pervasive legislation in which the whole society is interested and involved—it is a form of "participatory governance". Hence, LISP has to acquire material/facilitate access to RTI information.

The RTI empowers all Indian citizens to seek information from public authorities. These include central, state and local governments, parliament and state legislatures, judiciary, police, security forces and all bodies funded by government—in short, all publicly funded organisations.

## 2. Impact of RTI in Library and Information Centres

As the provision of information is a statutory requirement which every public authority is bound to meet, it behoves LISP attached to publicly funded organisations to be aware of the ramifications of this Act and to prepare themselves to effectively meet the information demands made vis-à-vis the LICs financial, transactional and administrative activities and policies. Systems should, therefore, be set in place for the purposes of records control and maintenance in LICs. The LISP will have to draw up guidelines regarding the implementation of procedures to meet requests for information under RTI. As every organisation will have a designated Public Information Officer (PIO), the LISP will have to work closely with the PIO in identifying categories of records, formats to be followed, policies for records retention, security etc.

At times, the Officer-in-Charge of the LIC might be the designated PIO. In such cases, he or she must clearly demarcate the responsibilities of the PIO from those of

the officer-in-charge. That is, be clear about the information requirements of a LIC patron and those asked for under the RTI. The first (as mentioned earlier) deals with information in the public domain and the latter with data generated in the course of the functioning of the organisation.

The first step in establishing such guidelines would be to spell out a goal statement. The goal statement could probably be as follows:

To provide exact and precise information within the required time frame.

The LISP would next have to decide on the policies regarding records management and control. These would deal with:

- Software
- Designated Personnel
- Security
- Frequency of updates
- Backups
- Retention of records
- Forms

Let us now examine each of the items listed here:

**Software**

Since records will have to be maintained both in digital as well as hard copy format, the software to be used will have to be critically examined and decided upon. The software will have to be compatible with the software used by the parent organisation. If the library is part of a group of libraries or a consortium then it will have to be compatible with those used by others so as to ensure easy portability and transfer of data.

**Designated Personnel**

Among the library staff, a group will have to be identified to be responsible for collecting and updating the data. The level of security among the staff thus identified should be taken into consideration. The categories of data that will be devolved to the staff and the categories of data that will be the province of the Head of the LIC itself will have to be clearly defined.

**Security**

The level and extent of security will have to be decided upon. Will all data be accessible by all the library staff or will access be restricted to certain library personnel alone. Here, the definition of document control as given in ISO 9001 is useful.

"Document control means that the right persons have the current version of the documents they need while unauthorized persons are prevented from use".

**Frequency of updates**

How frequently the data is updated will have to be decided upon. Also, how long it will take to update the information if a request is made. This is important as RTI mandates the time frame within which information must be provided. In fact, the Act states that:

"It is advisable that, as far as possible, the information should be updated as and when any development takes place. Particularly, in case of publication on the Internet, the information should be kept updated all the time"

The Act requires that every public authority has to update its publications under Section 4(1) (b) every year. The Central/State Government/Departments will have to come out with general instructions for time-bound updating of all categories of information, including formats for publication. Every public authority may in turn publish updated information that is specific to its functions following the guidelines". Hence, the LISP will have to ensure that the library website is kept updated all the time.

It should also be ensured that though a record is amended to reflect new or updated information the original record is not affected.

**Backups**

It must be decided where the backup copy of critical records should be maintained. Should it be on the library server or on a central server or at another location?

**Retention of records**

How long records should be retained will have to be decided upon. In a library certain records are always retained. For instance, records of holdings in a library which give information not only on current holdings but also on withdrawn items. However, period of retention of other records will be based on the policies of the organization with inputs from the designated PIO. Closely related to this would be policies regarding the archiving of records. The RTI Act specifically mentions Record Retention Schedule. However, it also says:

"[The Act] does not require the public authorities to retain records for indefinite period. The records need to be retained as per the record retention schedule applicable to the concerned public authority."

**Forms**

Decision would also have to be taken whether to use pre-defined forms for the records or not. Forms will have to be drawn up and periodic revision of the forms will have to be done in the light of feedback received, requirements of the PIO and the type of information sought.

Finally, to establish proper guidelines, the LISP will have to draw up a check list to answer key questions regarding:

- Categories of records

- Responsible personnel
- Location of data storage (current and archival)
- Access parameters and levels and security
- Retention time and disposal
- Effective storage and retrieval systems, etc.

The most important step, in fact an essential step, would be to define and document every decision taken regarding the policies given above. The need to document every decision and paper trails of activities cannot be stressed enough in the context of the RTI Act.

LISP can study ISO 9001 which provides guidelines for records identification, maintenance and control, especially about updating of records as ISO 9001 requires that every document shows when it was created or last updated. The automatic date field built into many software programs may not suitable for using as a date stamp and care should be taken while using this feature.

Guidelines will have to be drawn up for date stamp while revising or updating records. Wikipedia also lists the various steps involved in record management and control and this can be used as a check list while formulating policies and guidelines.

So far, the discussion has cantered around record management and control in general. Let us now look briefly at the categories of information that can be asked for and what are of particular relevance in the LIC setup.

### 3. Categories of Information under RTI

The Act defines "information" as any material in any form. It includes:

- Records
- Documents
- Memos
- E-mails
- Opinions
- Advices
- Press releases
- Circulars
- Orders
- Logbooks
- Contracts
- Reports
- Papers
- Samples
- Models
- Data material held in any electronic form

It also includes "information relating to any private body which can be accessed by the public authority under any law for the time being in force". This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority.

Section 4(1) (b) of the Act, in particular, requires every public authority to publish following sixteen categories of information:

i. The particulars of its organisation, functions and duties;
ii. The powers and duties of its officers and employees;
iii. The procedure followed in the decision making process, including channels of supervision and accountability;
iv. The norms set by it for the discharge of its functions;
v. The rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
vi. A statement of the categories of documents that are held by it or under its control;
vii. The particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
viii. A statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
ix. A directory of its officers and employees;
x. The monthly remuneration received by each of its officers and employees. including the system of compensation as provided in its regulations;
xi. The budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
xii. The manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
xiii. The particulars of recipients of concessions, permits or authorisations granted by it;
xiv. Details in respect of the information, available to or held by it, reduced in an electronic form;
xv. The particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
xvi. The names, designations and other particulars of the Public Information Officers.

Besides the categories of information enumerated above, the Government may prescribe other categories of information to be published by any public authority.

To fulfil these and other requirements, the following suggestions may be employed:

Regarding categories **i, ii and iii**, the LISP may maintain an organisational chart identifying personnel and delineating responsibilities and functions and flowcharts of activities.

Regarding categories **iv and v and xv**, standards and procedures may be set in place and these must be documented. Most libraries have over the years developed their own library manual which sets out policies and procedures. These have to be augmented or modified if necessary. If a library manual does not exist it is essential to create one. The rules and regulations would cover not only internal processes but services and facilities extended to users such as membership criteria, hours open, loan restrictions, photocopying facility, browsing facility and use of the Internet, interlibrary loans, access to e-journals, downloading restrictions etc.

Regarding categories **vi, xiv and xv**, the LIC website and its OPAC/WebOPAC would take care of this.

Regarding categories **vii and viii**, these could in the LIC context even be considered to be Library Committee members and LIC Committee Meetings where policies and procedures are decided upon regarding selection and purchase of materials, membership of consortia, copyright agreements regarding journals, photocopying etc., agreements signed with publisher regarding e-journal access, e-books use and download agreements, etc.

Regarding category **xi**, information on budget allocation should be maintained not only for library materials – documents, non-book materials, e-information resources – but also for equipment, furniture, supplies, official travel, etc. The amount spent on each item of expenditure and the rationale, approval and sanction behind such expenditure should be meticulously documented.

In addition, many libraries also generate income – through membership and access fees, supply of photocopies, consultancy fees, supply of information product's etc. Exact records should be maintained regarding these.

In-service training is an integral activity of any organisation and is important in the LIC milieu with the rapid advances in communications and information technology as it is imperative for LISP to meet changes and challenges in information access and requirements. Records should be maintained in this area also.

Records relating to attendance at conferences and papers presented and published in journals should also be maintained and updated.

The above shows that a two tier record maintenance and control system will have to be in place in a LIC. The first tier would be the files, notes, log books, minutes of meetings, reports etc. which the LIC is concerned with in its day-to-day activities. These have to be maintained meticulously and in a manner which is easily retrievable and understandable. The second tier would be records at a higher level, culled from the activities at the first tier. For instance, book selection policies and procedures, vendor selection and purchase data of documents would be at the first tier. The second tier might be records which show the amount spent on various subject categories, the percent of budget spent on these categories, the average cost of items in each of these categories etc. Similarly, broad usage statistics would be at the first tier but breakup

by categories of users such as students, industrialists, academics etc will be at the second tier.

### 4. suo moto Disclosure

suo moto is a legal term meaning "on its own motion". It is used when a government agency acts on its own cognizance, that is, an action is taken without prompting from another party. The Act mentions suo moto disclosure of information to the public through the Internet among other communication media. LISP have been for many years now following this by making available on their library website information about the library activities, timings, facilities available and rules and guidelines for the use of the library and its services, staff and contact information and through its WebOPAC, data about holdings, recent acquisitions, access to online resources etc. The LISP, in consultation with the designated PIO, may now have to give on its web site additional information which the organisation considers necessary to comply with the RTI Act requirements.

### 5. Exempted Information

So far, the discussion has centred around the need to set up procedures and systems so as to facilitate the provision of information whenever asked for. However, the LISP should also be aware that there are exemptions and that certain categories of information cannot be provided. This includes information which is harmful to the sovereignty and integrity of the nation, that which has been forbidden to be published by a court, information on trade secrets or intellectual property to name but a few. The LISP should take care to know the categories of information that cannot be provided under the RTI.

### 6. Censorship

Censorship has always been an oft-debated and troubled issue as far as LICs are concerned. Before discussing the various issues involved in censorship of materials in LICs and the issues thrown up in the digital age, it is necessary to understand what censorship is and its history.

### 7. What is Censorship?

The American Library Association (ALA) defines "Censorship as the suppression of ideas and information that certain persons—individuals, groups or government officials—find objectionable or dangerous." Though generally thought of in the context of government, as can be seen from the definition of the ALA, other groups can also be involved in censoring of materials. Censorship is used to prevent and control the creation, access and dissemination of ideas.

Censorship can be applied to the following:

- books and other print materials
- speech
- photographs
- films
- TV
- radio programmes
- digital materials
- the Internet

These can all be censored for any number of reasons:

- Political
- Social
- Religious
- Racist
- Moral
- Security concerns
- Age related (content may be inappropriate for certain age groups)
- Even the usage of inappropriate/inflammatory/indecent language

The history of censorship goes back a long time and history shows that it was practiced in ancient civilizations also. Though it is usually associated with dictatorship as a means of retaining power so that new/revolutionary/seditious ideas do not percolate among people, censorship has also been widely practiced by:

- Religious groups to prevent heresy and blasphemy and other religious ideas from taking hold
- Moralists who are worried about licentious or pornographic literature
- Racists to sustain existing social inequities and maintain social status quo
- Governments in the interests of security, etc.

The need for censorship may vary but it can be said that the rationale is the same: to suppress ideas/expressions under the guise of basically protecting major institutions such as the state, religious organisations and their practices, society and the family.

**8. Library Ethos vis-a-via Censorship**

Censorship and librarians have had a troubled relationship. Censorship goes against what is the fundamental ethos of librarianship i.e. to make information accessible to all without discrimination. The very philosophy of librarianship is against the very concept of censorship. Let us first look at what The International Federation of Library Associations and Institutions (IFLA) have to say:

"IFLA supports, defends and promotes intellectual freedom as defined in the United Nations Universal Declaration of Human Rights"

IFLA asserts that a commitment to intellectual freedom is a core responsibility for the library and information profession.

IFLA therefore calls upon libraries and library staff to adhere to the principles of intellectual freedom, uninhibited access to information and freedom of expression and to recognize the privacy of the library user.

From this statement it is clear that IFLA considers "the freedom of expression" and "the right to know" as two aspects of the same principle. To this end, LICs should take steps to acquire materials that reflect the plurality and diversity of society. LISP is:

i. exhorted to be governed by "professional considerations and not by political, moral and religious views".
ii. to adhere to the principles of intellectual freedom.
iii. to recognize the privacy of the user.

Within IFLA, there is the Committee on Freedom of Access to Information and Freedom of Expression (FAIFE). its mission statement is given below:

"The overall objective of IFLA/FAIFE is to raise awareness of the essential correlation between the library concept and the values of intellectual freedom. To reach this goal IFLA/FAIFE collects and disseminates documentation and aims to stimulate a dialog both within and outside the library world".

India, having been associated with IFLA from the beginning, it is essential that LISP are aware of IFLA recommendations and guidelines.

The most proactive in the area of censorship is the American Library Association (ALA) which set up the Office of Intellectual Freedom (OIF) in 1967 to implement its policies as embodied in the Library Bill of Rights (First adopted in and after subsequent amendments reaffirmed on January 23, 1996). The OIF has set up many groups and initiatives to educate LISP and the public and also to deal with issues relating to censorship.

The Chartered Institute of Library and Information Professionals (CILIP) in UK has issued its own statement (2005) on intellectual freedom and censorship in which it states that the organisation is committed

"to promoting a society where intellectual activity and creativity, freedom of expression and debate, and access to information are encouraged and nurtured".

The National Coalition Against Censorship (NCAC), founded in 1974, states that its mission is

"to promote freedom of thought, inquiry and expression and oppose censorship in all its forms"

An alliance of 50 American non-profit organizations, it consists of literary, artistic, religious, educational, professional, labour, and civil liberties groups. (http://ncac.org)

## 9. Forms or Types of Censorship

There are two forms of direct censorship that will be discussed here: regulative and constitutive censorship. Both forms of censorship can be applied to LICs, and LISP should be aware of what these forms are and the methods by which they are enforced.

### Regulative Censorship

Regulative censorship is when a regulatory organization, usually the government, dictates what information can be made available in the public domain, such as when material or access to material (including web access) is banned by law. The government may do so in the interests of national security: to prevent insurgency, to prevent a law and order situation, to prevent disharmony, etc. It is not just the central government which exercises the right to ban books; state governments have also done so over the years. Internet filtering is also practiced by the Government in India and there have been instances of banning of web sites. This is discussed in a later section.

There are many examples of censorship in India throughout history. For instance, many vernacular newspapers were banned in British India as well as several books such as Katherine Mayo's Face of Mother India. A more recent example is Satanic Verses by Salman Rushdie, among others. The responsibility of LISP will be to keep abreast of such developments during collection development and in facilitating use of the LIC.

### Constitutive Censorship

Constitutive censorship is a type of censorship that a group imposes through disapproval, isolation and even banishment from the community. This is where information, thoughts and ideas that violate social norms and values are suppressed though a variety of sociological processes. A recent example of constitutive censorship is the decision made by Penguin Books India, publishers of Dr. Wendy Doniger's The Hindus: An Alternative History, to recall and destroy all copies of the book bowing to a pressure from a social/religious group. This has been widely discussed in newspapers such as 'The Hindu', 'The Times of India' among others from February 11, 2014.

Another sociological process is self-censorship, which is defined by Cambridge Dictionaries Online as:

"Control of what you say or do in order to avoid annoying or offending others, but without being told officially that such control is necessary"

Libricide or Biblioclasm is the practice of destroying books or other materials which offend or are not in synch with the ideas, ethos or beliefs of a particular group or which are thought of as being subversive to the ideologies of a particular group. It is

generally done in public. History abounds with cases of book burning and destroying of library materials. Wikipedia lists the incidents.

(http://en.wikipedia.org/wiki/List_of_book-burning_incidents)

There have been many cases of libricide and vandalism in India. The burning of the collection of Nalanda University in the 12th century is well known in history. A couple of recent incidents are also given as illustration. In 2004, the Pune Bhandarkar oriental research institute (Bori) was ransacked by a mob objecting to a history book on Shivaji. Recently, the publisher of Wendy Doniger's The Hindus: An Alternative History decided to remove the title from bookshelves in India and pulp them.

Not just books, any form of expression can also be censored or prevented from being made public by interested groups. The recent controversy regarding the screening of the film "PK" illustrates this.

In the LIC setup, the LISP take the initiative in censoring materials acquired or in preventing access to certain information. Studies and experience show that many LISP self-censor to some extent. Why do they practice self-censorship? They do so to avoid trouble or controversy; to avoid offending the regular users; to keep up with "community standards"; to protect themselves against potential threats; to avoid probable lawsuits or strictures from higher authorities or even sub-consciously because of ingrained moral values. They may do this during collection management – both in acquisition of materials as well as in the way/and where they arrange them. For instance, materials may be kept at a spot which is not easily accessible to the users. Another possibility is "Censorship through consensus". Here adherence to shared social values by members of the society of which the LISP is a part may give rise to self-censorship.

Only a very thin line separates censorship and selection of materials and LISP must be able to discern it. The New York Library Association has developed a self-censorship check list to enable LISP to find out whether they are practicing self-censorship or not. Among other questions, the list asks LISP to check:

- If they have avoided purchasing materials because parents might not approve.
- If they have avoided purchasing materials because the authors' background or views are not acceptable.
- Whether they have labeled materials in such a way as to create a prejudice in the minds of the users or;
- If they have removed materials because of pressure groups.
- If they have violated the right to privacy of users or allowed unauthorised access to the library records of the users.

## 10. Responsibility of LISP

The Australian Library and Information Association (ALIA) in its Statement on free access to information asserts that

Freedom can be protected in a democratic society only if its citizens have unrestricted access to information and ideas. (http://www.alia.org.au)

From this statement it is clear that the role of LISP is a crucial one when maintaining a democracy. The ALIA also lists specific responsibilities for librarians to uphold in the context of unrestricted freedom of access. These are:

- Access without discrimination
- Inclusive approach in building library collection and ensuring information is available from a variety of sources. Collection building also should not have any bias and should not be influenced by different beliefs and ideas.
- Maintenance of the confidentiality of users
- Resistance to vested interests of users of the libraries
- Work closely with the government in the context of legislation relating to censorship.

## 11. Censorship in LICs

Moody explores certain common library practices which give rise to what she terms as "covert censorship". These are:

### Vendor bias

LISP generally rely on review journals in book selection process. These journals may be biased in favour of large publishing houses which are given more space and maybe little or no mention of alternative or independent publishers. This in turn influences selection process. To overcome this, LISP will have to regularly scan a variety of sources in addition to publisher catalogues and the Internet to identify relevant items.

### Citation rates for periodical selection

Use of citation rates alone does not indicate the relevance of the title for the user especially in academic or special libraries and information centres. Such LICs might require titles which are not very visible but may contain information of interest.

### Pressure from funding bodies

This is a difficult issue as LISP rely on funding agencies for survival.

### Self-censorship

This has been discussed above.

### Omission of "alternative literature"

Most of such literature, which is either self-published or published by small publishers, deals with concepts and ideas which is not part of the main stream or which are radical. These also need to find representation in the LIC.

## Cataloguing bias and labeling

The extent of cataloguing and the subject representation might be such that it effectively masks the real content of the material. Labeling might be done by LISP to indicate either age related material or content related. For instance, if it felt that the content might be distressing for some groups such labeling may be done. When and whether labeling is done is a question that has to be answered by LISP.

Censorship is not only practiced through the exclusion of certain materials, but may also take place after the material has been acquired by the LIC. Users of the LIC may take objection to what is available in the library and want it to be removed. They may pressurize the LISP to take suitable action and not make it available to users. This places the LISP in a dilemma; they may not want to antagonize a section of the users or members of a library committee, but at the same time they have to provide access to others who may want such material to be kept. Sometimes, the objection may also take a violent turn. An example of this is the vandalisation of Bandarkar Library, Pune in 2004. However, the ethos of LISP is that LICs, especially those serving the general public, have to cater to every need and every user despite objections by groups. As Coyle states:

"Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval"

This leads to another argument – what is thought of as unsuitable for whatever reason at present may not be thought so in the future. If the LIC does not acquire such material now then they will not be available when it is needed or sought for at a later point of time when social, moral or political ideas and attitudes change. For students of political history, it is necessary to study and critically examine various view points and the banning of books prevents them from doing so. For example, the classic "Uncle Tom's Cabin" was banned for some time in Southern USA during the civil war. What is obscene or pornography is difficult to define as attitudes to morality change over time. Both "Lord Chatterley's Lover" and "Madame Bovary" were considered obscene and banned for some time before later ideas regarding the publications changed.

It is not just fiction, political or socio-economic literature, science writings have also been challenged over time. The most famous case of scientific suppression remains that of Galileo in Italy: in 1633 he was forced to disavow his finding that the Earth revolves around the Sun. Another instance was when Darwin's books on evolution were banned by religious groups in the USA. A cursory perusal of the Web with the search term science censorship shows that even in recent times, censorship of science is being practiced. (For example, the article "Do not censor science in the name of bio security" in Nature, Volume: 486, Pages: 295 Date published: (21 June 2012) DOI: doi: 10.1038/486295a.) Though the above primarily deal with communication of scientific information, LISP of academic or special libraries must be aware of the problem, and if material is not statutorily banned they should take steps to acquire

such material or facilitate access as communication and access are the essence of scientific endeavour.

Literature also abounds with questions of whether children should be permitted to access adult literature or whether LISP should take steps to restrict such access. Most of the questions regarding censorship are raised by American LISP who relate censorship to intellectual freedom as granted in the Library Bill of Rights and the First Amendment of the US Constitution. The Children's Internet Protection Act (CIPA) was signed into law on December 21, 2000 in the USA. Under CIPA, schools or libraries receiving discounts or federal funds must certify that it is enforcing a policy of Internet safety that includes the use of filtering or blocking technology. The protection measures must address the following:

a. access by minors to inappropriate matter on the Internet

b. the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications

c. unauthorized access, including so-called "hacking," and other unlawful activities by minors online

d. unauthorized disclosure, use, and dissemination of personal information regarding minors

e. measures restricting minors' access to materials harmful to them

## 12. Censorship on the Internet

The wide spread use of the Internet for information and provision of browsing facilities in LICs has given rise to newer censorship issues and discussions on the concomitant actions taken. Internet censorship can be done at several levels just as for printed and other non-book materials – at the national/state level by the government when sites are blocked and thus denying access. In India, Internet censorship is being practiced by both central and state governments by blocking access/removing content that is obscene or otherwise objectionable, or that which endangers public order or national security. Censorship can also be done at the organisational level and at the level of the LIC itself.

This lesson will discuss the last scenario alone as LISP are closely involved with this. However, before doing so, let us first look at certain concepts/terminology and developments in this area of discourse.

Content-control software, content filtering or blocking software are terms describing software designed to restrict or control the content a user is authorised to access on the Internet. Filters are of many types and can be implemented in many ways. There are

- Browser-based filters
- Software on proxy servers or firewalls (both software and hardware)
- Client-side filters which can be installed on individual computers
- Content-filter done by ISPs

- Filters at the network level depending on the policies of the institution etc.

Many search engines also offer the option of turning on a safety filter whereby inappropriate links can be filtered out of the search results so the filtering is done by the search engine itself and not at the organisational level. However. this applies to results of the search alone as access is possible directly if the URL itself is known.

While filtering, care must be taken about over-blocking or under-blocking. Over-blocking occurs when content that is not meant to be censored is filtered out. This can result in over-blocking, or over-censoring. This might be because of what is termed as Scunthorpe problem which occurs when a filter or search engine blocks e-mails, forum posts or search results because their text contains a string of letters that form part of an obscene word. Under-blocking occurs whenever new information is uploaded to the Internet and filters are not updated quickly or accurately. Material meant to be censored then pass through the filter.

Recently, Google and Microsoft had announced efforts to fight child pornography by re-programming their search engines, so that about 100,000 potential terms will not be able to yield any search results related to child pornography.

Hence, it can be seen that the widespread use of the Web in both the in-house areas as well as the public areas of the library calls for a great deal of thought regarding information access. Libraries will have to develop policies regarding access and use of the Internet. These policies will have to be drawn up as a group activity in consultation with the LIC authorities, members of the Library Board, Patrons and the Network and Systems Administrator.

Apart from government mandated censorship, self-censorship as mentioned earlier comes into play in the context of Internet access also. This relates to the extent and type of filtering to be used.

## 13. Policy Decisions in the LIC

There are many questions to consider when deciding on the extent of filtering required. In a LIC which is used by both adults and children, would separate terminals have to be set up for the different category of users based on age so that selective filtering can be done? Else, could libraries be kept open for longer hours for adults alone? Sites might be blocked during common usage time and opened up during adult hours. Sometimes, policy decisions regarding access may be taken especially if funds and space permit only a limited number of terminals. Under such circumstances, conditional access may be permitted based on usage statistics. For instance, in academic libraries access to sites exclusively for entertainment might be restricted during high usage hours of the LIC so that the terminals may be used for accessing academic or educational material only during that time. This is a case of partial censorship. Sometimes, certain content alone may be blocked but not the access to the site itself. Some libraries use Internet filters on computers used by children only. Some libraries may employ content-control software which can be deactivated on a case-by-case basis depending on the application. If the LIC were a part of a LIC

system then a decision would have to be taken whether to filter the whole system or apply the filter only to particular units depending on age or other criteria.

The responsibility of selecting appropriate filtering software devolves upon the LISP. This would depend on the extent of filtering required. The LISP would not only have to keep abreast of the various filtering software available but should be capable of critically assessing their capability to perform the expected functions. Further, they should have in place a mechanism for monitoring the effectiveness of the filters to avoid over-blocking and also for updating the filters so that under-blocking does not occur.

In this context, it would be interesting to know about "404 Day: A day of action against censorship in libraries". On April 4th 2014 the Electronic Frontier Foundation (EFF) along with the MIT Center for Civic Media and the National Coalition against Censorship organised a digital teach-for library personnel to understand and learn more about the use and applications of Internet filters in libraries. (https://www.eff.org/.../404-day-day-action-against-censorship-libraries) The EFF, founded in 1990, is a non-profit organisation which champions user privacy and free expression (www.eff.org)

## 14. Summary

This module has looked at two closely related issues, viz., Right to Information and Censorship. The module does not deal with the philosophy of censorship or the justification or otherwise for doing so. Whether or not to fight censorship depends on many factors and on the situation at the time. LISP will have to use their judgment on a case to case basis and will have to prevail upon professional bodies and associations to address these issues. The responsibilities and duties of the LISP in the context of the RTI have been enumerated briefly. The essentiality of records identification, maintenance and control has been stressed especially as provision of information sought is a statutory requirement. In this context, it would be helpful to bear in mind clause 4.2.4 of ISO 9001 which states that it is necessary to establish a documented procedure to define the controls needed for the identification, storage, protection, retrieval and retention and stresses the need for records to be legible, readily identifiable and retrievable.

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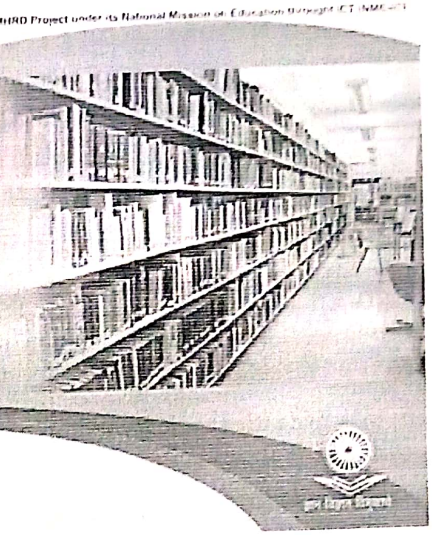

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**Paper No: 01** Knowledge Society

**Module :10** Intellectual Property Rights: Patents

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## Module 10: Intellectual Property Rights: Patents

### I. Objectives

- To provide the students with an understanding of
- The laws relating to what is patentable
- The roles libraries & information centers should play in patenting
- The range of databases available

### II. Learning Outcome

On completion of this module, you are expected to have a clear understanding of the evolution of patent system, its objectives and what is patentable and what is not. You should also have an understanding of the role libraries and information centres in R & D institutions should play in serving their parent organizations with regard to patenting their inventions and innovations

### III. Structure of Module

1. Introduction
2. What can be patented?
3. Ever greening of Patents
4. Criteria for Patenting
5. Terminology Associated with Patents
6. Procedure in Patenting
7. Types of Patent Applications
8. Contents of Patent Document
9. International Patent Laws
    - 9.1 The Paris Convention
    - 9.2 The European Patent Convention
    - 9.3 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977).
    - 9.4. Patent Cooperation Treaty (PCT)
    - 9.5. Patent Laws in Other Countries
10. Patent Laws in India
11. Retrieval Tools

## 1. Introduction

Patents are one of the oldest forms of intellectual property. It is the exclusive right given to an inventor for a specified period of time protecting an invention – a "product" or the "process" of manufacturing that product. It grants the inventor the right to make sell or use the product or process and exclude others from doing so. Granting a patent is based on two fundamental ideas – i) human effort should be rewarded and that one is entitled to the fruit of one's labors; and ii) the product invented/process developed should not be the sole possession of the inventor in perpetuity. It should be for the 'public good' i.e. knowledge should be in the 'public domain'. Hence, even though a patent is granted for exclusive use, the time for such use is limited by law. The document which describes the invention is called a patent specification. It describes the legal rights in a patent are based on the disclosures made in the specification. The international organisation concerned with various aspects of intellectual property including patents is the WIPO. TRIPS which is an international treaty on Intellectual Property has also been described earlier. As is the case with copyright, there are international treaties for patents also.

## 2. What can be patented?

A patent can be granted for an invention of any process or product. The word "Invention" has been defined in the Patents Act 1970 as "a new product or process involving an inventive step and capable of industrial application". "New invention" is defined as any invention or technology which has not been described earlier in any document or which has been used in the country or elsewhere in the world before the date of filing of patent application i.e. the subject matter is not in the public domain or that it does not form part of the state of the art. "Capable of industrial application" means that the invention is capable of being made or used in an industry

As mentioned earlier, an application cannot be filed for an invention which has been either published or which has been publicly displayed. However, the Patents Act also states:

"Under certain conditions, there is grace period of 12 months for filing application even after publication. The Patents Act provides a grace period of 12 months for filing of patent application from the date of its publication in a journal or its public display in an exhibition organized by the Government or disclosure before any learned society"

The details and conditions are provided under Chapter VI of the Act (Section 29-34) (ipindia.nic.in/ipr/patent/faq_patent.htm).

## 3. Ever greening of Patents

Ever greening of a patent is a strategy allegedly adopted by some to renew their patents by bringing in some minor changes when the patent is about to expire. A patent on the new form would then give them monopoly for a further period of 20 years. This term is generally discussed in the context of pharmaceutical companies. The theory is that by adding new mixtures or formulations to an existing drug, pharma companies can patent the "new" drug and sell it at a higher cost. Indian patent law

prevents the ever-greening of a patent. Indian Supreme Court on April 1, 2013 denied a patent for the Novartis breakthrough drug Glivec (Imatinibmesylate). [1]

## 4. Criteria for Patenting

Three criteria have to be fulfilled for an invention to be patented. These are:

- Novelty – the invention must be new or novel.
- Non-obviousness – an inventive step should be involved
- Utility – it must be capable of industrial application.

To obtain a patent, a patent specification, which is a written description of the invention, is submitted to the designated patent office. It discloses the details of the invention for which the patent protection is sought. The legal rights in a patent are based on the disclosures made in the specification.

## 5. Terminology Associated with Patents

### Prior Art

Prior Art is all the information that has been disclosed to the public in any form about an invention before a given date. Knowledge of prior art is necessary while patenting to confirm novelty and non-obviousness.

### What is a "priority date"?

Priority date is generally the date of first filing allotted by the patent office to an application. More than one person might be working on a problem (product or process) at the same time and achieve the same result. But only one person can be granted a patent for the invention. In such a case, the first-to-file the application gets the priority in granting the patent. Such a rule is useful when a patent is being applied for in several countries as Priority Date is the filing date of the first application in any of the countries under the treaties mentioned earlier. Though the date of filing is generally accepted as priority date it is not always so in all countries. In USA, for instance, it is the date when the invention was done.

### Inventor vs. Applicant

The inventor need not necessarily be the applicant i.e. the one who applies for the patent. Patents are property. Generally, a patent is owned by the inventor. However, the inventor and the owner of the patent may be different. The rights to the property can be assigned to others by the inventor. For instance, in a government funded research institute or an academic institution, the inventor assigns the patent to the institute or a university. The USA, however, requires a patent application to be in the name of the inventor. A company cannot be the inventive entity.

### Term of Patent

Currently, the term for patents in India is 20 years from the date of filing of the application for the patent whether it is a provisional or complete specification. The patent can be renewed every year on payment of a fee to the Patent Office and it is the

responsibility of the patentee to keep the patent alive by paying the requisite annual fee.

After the 20 year term the invention claimed in the patent falls into the public domain. In case of applications filed under PCT the term of 20 years begins from International filing date.

## Infringement

Infringement of a patent is the violation of the exclusive rights of the patentee.

### 6. Procedure in Patenting

Filing of an application at the designated Patent Office is the first step in the patenting process. Once a patent is filed it is checked for the correctness of all documents required to be submitted with the application. It is then examined against the criteria mentioned earlier for patentability. Prior art search is also done by the Examiner at the Patent Office. Objections may be raised if criteria are not satisfied and the applicant can resubmit the application after carrying out the necessary changes. Once the criteria are satisfied it is published in the Official Journal of the Patent Office, after 18 months from the date of filing.

It is now open for opposition by third party which can be done within a period of one year from the date of advertising. If there is no opposition then the patent is sealed or granted. It is then published in the Patent Journal. A granted patent gives the inventor/assignee the exclusive right to make or sell the patented product or process and to exclude others from doing so. However, the government has the right to make use of the patent if it deems it necessary. It can also be used by others for experimental or educational and research purposes.

Indian patent law allows both pre-grant opposition and post-grant opposition. Pre-grant opposition can be anytime after the publication of the patent until its grant. It is granted only if it overcomes pre-grant opposition. Post-grant opposition decides whether the patent should be maintained or not.

### 7. Types of Patent Applications

- Ordinary Application: An application filed without reference to any other application made earlier.
- Convention Application: In this application priority date is claimed on an application made earlier in a convention country. The application is submitted along with the priority document.
- PCT International Application: An application made according to PCT. The applicant gets an international filing date in all the designated countries.

**Application for Patent of Addition:** If the applicant feels that he can do a slight modification to what he has already invented and for which a patent has been applied for, he can apply for an Application for Addition. This is because there is no inventive step involved.

**Provisional Specification:** A provisional specification does not disclose the complete description of the invention as time might be required to develop it further. The provisional specification is filed to claim the priority date of an invention. Immediately on receiving the provisional specification the patent office accords a filing date for the application. A period up to twelve months is provided to the applicant for filing the complete specification.

**Complete Specification:** The document, containing the detailed description of invention along with the drawings and claims is called as the complete specification. The description regarding prior art is included in the complete specification. The disclosure of the invention in a complete specification must be such that a person skilled in the art may be able to perform the invention. It is mandatory on the part of an applicant to disclose fully the various features constituting the invention along with experimental results and drawings, etc. essential for understanding the invention. The complete specification contains the patent number, the title of the invention, the field to which the invention belongs, prior art, the name, address and nationality of each of the applicants. Every complete specification is accompanied by an abstract to provide technical information on the invention. The Claims section in a specification defines the scope of legal protection. The Claims define the monopoly rights that the applicant is trying to obtain for the invention.

**Equivalent Patent:** A patent that relates to the same invention and shares the same priority application as a patent filed elsewhere.

**Patent Family:** A patent family consists of all the patents which relate to the same invention published by different patent offices in various countries. That is, it is the same invention patented in more than one country by the same inventor and having the same priority date.

**8. Contents of Patent Document**

A patent document is a techno-legal document and four categories of information can be found:

- Bibliographic
- Technical
- Legal
- Database and retrieval oriented

Every patent document must contain a description of the "prior art" in that area. That is, it describes the state of the art of technology in the field of invention and the various developments in the field in which the patent is being applied for and as such contains references to periodical articles, earlier patent specifications and other literature. Thus it contains useful research and technical information. There are two types of "prior art" references - those given by the applicant and those given by the Patent Examiner. As patent system is very old, LISP can help in tracing the history of specific fields of technology especially as such information may not be available in any other form of publication.

## 9. International Patent Laws

### 9.1 The Paris Convention

The Paris Convention for the Protection of Industrial Property, signed in Paris in1883, was one of the first intellectual property treaties and is administered by WIPO. The Convention applies to all categories of industrial property such as patents, trade and service marks, industrial designs, utility models (a kind of "small patent" provided for by the laws of some countries), trade names and geographical indications. As of 2013, the Convention has 175 contracting member countries. India became a member of the Paris Convention in December 1998.The principal features are:

- A member country is obliged to give nationals of other member countries the same protection and advantages as it grants to its own nationals.
- Right of priority: The Convention provides for the right of priority in the case of patents, trade and service marks and industrial designs. This means that if an application is filed in one country and is subsequently filed within the specified time frame in another convention country, the latter application will be considered to be filed on the same day as the first application thus ensuring right of priority
- Common Rules: The Convention has also laid down some common rules for all the contracting states.

### 9.2 The European Patent Convention

European Patent Convention (EPC) signed in Munich in 1973 is a multilateral treaty instituting the European Patent Organisation (EPO) - an intergovernmental organization - for granting European patents.

### 9.3 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977).

This treaty is administered by WIPO and India became a signatory in 2001.In any patent specification the invention should be described in sufficient detail so that it is possible for a person skilled in the art to perform the invention. When an invention involves microorganism, it is not possible to describe it in a manner by which others can perform the invention. Hence, in inventions involving microorganisms, a deposit of the biological material in a recognized institution is required. The Budapest Treaty ensures that if an applicant deposits the material in any one recognized institution it is not necessary to deposit it again in other countries when applying for a patent in those countries.

### 9.4. Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (1970), an international patent law treaty provides a unified procedure for filing patent applications in each of its 148 Contracting States. By filing one international patent application under the PCT, applicants can seek protection and priority in any of the countries designated by them. India is a member of the PCT since December 1998.

## 9.5. Patent Laws in Other Countries

As has been mentioned earlier, patent laws are national in scope. To know more about the laws of various countries, WIPO has created the WIPO Lex which is an electronic database providing access to intellectual property (IP) laws and treaties of the Members of WIPO, the World Trade Organization (WTO) and the United Nations (UN).

National Laws on Patents can also be accessed from the Patent Lens web site. www.patentlens.net/daisy/patentlens/ip/around-the-world.html

## 10. Patent Laws in India

The Indian Patents and Designs Act 1911 came into force in 1912 replaced all earlier acts and brought patent administration under the management of Controller of Patents for the first time. The 1911 Act was amended in 1950. The Patents Act 1970 repealed and replaced the 1911 Act so far as the patents law was concerned. This Act permitted only process patents for five years, and no product patents for drugs and pharmaceuticals and certain classes of chemicals. The 1970 Act was again amended in 2005 to be in line with TRIPS.

## 11. Retrieval Tools

### 11.1 Indian Patent Classification System

The Indian Patent Classification System is more than sixty-year-old. As the classification system has not kept up with developments in technology, the classes are very broad. It is not in use.

### 11.2 The International Patent Classification (IPC)

The Strasbourg Agreement (of 1971) provides for a common classification for patents including published patent applications, utility models and utility certificates. The IPC is a hierarchical system in which the whole area of technology is divided into sections, classes, subclasses and groups. The IPC contains about 70,000 groups. The hierarchy is as follows:

- Section
- Sub-section
- Class
- Sub-class
- Main Group
- Sub-group

More than one classification number can be assigned to a patent document so as to indicate the various facets of the information contained.

### 11.3 INID Codes

Since patents can be in different languages there may be differences in terminology to describe the data elements. To overcome this, the INID code was developed as a

common code for identifying the different data elements. INID stands for internationally agreed Numbers for the Identification of (bibliographic) Data. The INID codes can be utilized by the information professional to retrieve patents in different languages or when creating an in-house database of patents.

**12. Sources of Information**

Activities relating to patents have their own terminology. The OECD's 'Glossary of Patent Terminology' is a very useful tool to understand the various terms used in Patenting and Patent Searching. (http://www.oecd.org/sti/sci-tech/37569498.pdf)

Indian Patent Information Retrieval System. (IPAIRS) is a free search portal launched by the Indian Patent Office. Version 2.0 was released in April 2012. It includes full specifications of Indian patents.

## 12.1 Official Journal of the Patent Office

A requirement of the 2005 amendment to the Patent Act 1970 was the publication of an Official Journal of the Patent Office. It is a weekly uploaded every Friday and is available on the patent office website.

(http://ipindia.nic.in/ipr/patent/patents.htm).

## 12.2 WIPO Patent Information Services (WPIS)

To offer technical assistance to developing countries, WIPO has set-up the WIPO Patent Information Services (WPIS) for handling individual requests for patent information. The WIPO Patent Information Services are offered free of charge to developing countries.

(http://www.wipo.int/patentscope/en/data/developing_countries.html).

The WIPO Guide to using PATENT INFORMATION is useful in understanding the structure of a patent document and tips for searching them. http://www.wipo.int/edocs/pubdocs/en/patents/434/wipo_pub_l434_03.pdf

## 12.3 Guide to Technology Databases

WIPO has brought out the "Guide to Technology Databases" to assist the users in identifying and using publicly available online patent databases. The Guide describes the scope of each of the databases and evaluates them. (www.wipo.int/freepublications/en/patents/.../wipo_pub_l434_11.pdf)

## 12.4 Patent Lens

Patent Lens is a worldwide, open-access, free full-text patent database. It covers over 8 million patents and applications – those of WIPO, USPTO, and EPO. It also integrates the INPADOC legal status feature and patent family information. A useful feature is the searching of DNA and protein sequences disclosed in patents. Another feature of interest is the "Technology Landscape" which deals with technologies relevant to life scientists and are 'interpretation maps' of specific topics and which analyze patent data relating to particular topics.

### 12.5 Google Patents

Launched on December 14, 2006 and originally confined to patents and patent applications of the United States Patent and Trademark Office (USPTO), includes European patent documents, China patents, German patents, Canada patents, and WIPO Patent details.

(https://support.google.com/faqs/answer/2539193?hl=en.)

### 12.6 Patent scope

Patent scope is a database administered by the WIPO and provides access to regional and national patents as well as International Patent Cooperation Treaty (PCT) applications in full text format on the day of publication. Being an international organisation, the WIPO has provided a search interface in 9 languages. Cross-Lingual Information Retrieval (CLIR) is a tool that proposes synonyms for search keywords and automatically translates the keywords for retrieval.

(http://www.wipo.int/export/sites/www/freepublications/en/patents/434/wipo_pub_l434_08.pdf)

### 12.7 Espacenet

Espacenet developed by the European Patent Office (EPO) offers free access to more than 70 million patent documents worldwide. The coverage goes as far back as 1836. The European Patent Office (EPO)'s machine translation service Patent Translate service offers on-the-fly-translation of patent documents for all 28 official languages of the EPO's 38 member states, plus Chinese, Japanese, Korean and Russian. It is also possible to ascertain the legal status of the patent through links with the European Patent Register (www.epo.org/register).

INPADOC, which stands for International Patent Documentation Center, is an international patent database produced and maintained by the EPO. The database provides information about patent families and also information concerning the legal status of patent applications. The database is the most comprehensive one for performing worldwide patent family searches.

(www.epo.org/searching/essentials/patent-families/inpadoc.html)

The Global Patent Index (GPI) is an advanced tool for searching the EPO's worldwide patent data. The GPI is based on the EPO's DocDB worldwide patent database collection and INPADOC worldwide legal status database (www.epo.org/gpi)

### 12.8 National/Regional Patent Offices

Patents of specific national and regional Patent Office's can be identified by searching the website of these Offices. For example, the US Patent and Trademark Office for US Patents and Patent Applications (www.uspto.gov).

### 12.9 Historical Information

For those interested in historical searches, some of the references which would be of help are given below:

- Gazette of India
- Patents for Inventions
- Patent Office Journal(POJ)
- Indexes by the Indian Patent Office
- Journal of the Patent Office Technical Society
- Patented Inventions of the CSIR
- INPAT Database
- Ekaswa Databases
- Institutional Sources
- National Institute for Intellectual Property Management (NIIPM)
- Patent Information System (PIS)

## 13. Institutional Sources

The website of the Controller General of Patents, Designs and Trademarks provides information on all patents, designs, trademarks, geographical indications. http://www.ipindia.nic.in/

### 13.1 National Institute for Intellectual Property Management (NIIPM)

The Rajiv Gandhi National Institute for Intellectual Property Management under the Ministry of Commerce & Industry is engaged in conducting training and awareness programs relating to Intellectual Property Rights such as Patents, Designs, Trademarks and Geographical Indications. (http://www.ipindia.nic.in/NIIPM/)

### 13.2 Patent Information System (PIS)

PIS were established in 1980 at Nagpur by Ministry of Commerce and Industry, with the following objectives:

- To obtain and maintain a comprehensive collection of patent specification and patent related literature on a world-wide basis.
- To provide technological information contained in patents through search services and patent copy supply service;

The PIS has many international databases and full texts of patents the list of which is given in its website. The PIS also provides search services including state-of-art-search, bibliographic search and family patent search.

(http://ipindia.nic.in/Niipm/pis.htm)

### 13.3 Traditional Knowledge

Patents have been applied for and granted in many instances on the basis of the traditional knowledge of a community or society and though this knowledge is in the public domain it is not available in any document. This is because such knowledge is generally passed down from one generation to the next by word of mouth, and for the

most part is not documented. This is a major cause of concern to governments as it leads to economic losses and is prejudicial to the interests of the community and to the nation at large.

Biopiracy refers to the appropriation, generally by means of patents, of indigenous biomedical knowledge by foreign entities (including corporations, universities and governments) without compensatory payment.

IPR regimes have been permitting only formal systems of knowledge. India has strong and worthy informal systems of knowledge. This knowledge has to be codified so that information contained in them can be documented to prevent biopiracy. India is one of the 193 odd nations that are a party to the international treaty - Convention on Biological Diversity which came into force on 29/12/1993. India has passed the Biological Diversity Act 2002 under which every local body shall constitute a Biodiversity Management Committee and maintain a People's Biodiversity Register which shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with it. The library professional especially those in public libraries in rural areas can get involved in such endeavors.

### 13.4 Traditional Knowledge Digital Library

Another immense effort to combat biopiracy is the Traditional Knowledge Digital Library (TKDL) Project of the NISCAIR, a CSIR institution. The examiners of patents involving neem, turmeric, etc. contended that they could not search relevant traditional knowledge as prior art. The reason for this non-accessibility were that a) such information was not compiled and arranged in an orderly fashion b) the prior art was confined to texts which were not in the English language. The TKDL project was established in 2001 to overcome this. At the time the TKDL was established, it was estimated that nearly 2000 patents relating to Indian Medicinal Systems had been granted. The TKDL database makes available the information from various sources. TKDL gives modern names to plants/diseases/processes mentioned in literature relating to Indian systems of medicine. TKDL is a database containing information from Indian Systems of Medicine including Ayurveda, Siddha, Unani and Yoga to be used as prior art. It contains scanned images of medicinal formulations from original books. TKDL has since its inception prevented many patents being granted. The information professional thus has an important or even vital role to play in participating in the documenting of knowledge/dissemination of such knowledge.

## 14. The Role of LISP vis-à-vis Patents

Novelty had been mentioned as being one of the criteria for patenting. Novelty means that the information contained in the patent should not have been published earlier or in use. An extensive and exhaustive search of literature and patent publications is necessary to determine novelty. The LISP can thus help the patentee in several ways:

- before filing of the patent to ascertain if information is already available in published form or if it is already put into use;
- by creating awareness in the applicants for the need for novelty and advising them in filing a patent before the matter is submitted as a dissertation or as a paper.

- by checking for novelty in patents relating to the field of interest of the parent organization so as to aid in the opposition process.

### 15. Trademarks

A trademark is basically a visual symbol which is used to label goods or services so as to distinguish the goods or services offered by one undertaking from those offered by another. It can be a name, word, symbol, slogan or even a combination of the above and identifies a given product. The main characteristics of a trademark are that:

- it should be distinctive i.e. be able to distinguish the goods and services of another
- It should not be deceptive

A service mark is the same as a trademark. However, it identifies a service and not a product. Service marks are used to create a brand image. They are extensively used in the hospitality, advertising, telecommunication industries to name a few and for medical services, education etc.

### 15.1 Trademark Protection in India

Trademarks are administered by the Trademarks Registry under the Controller General of Patents, Trademarks and Designs. It administers the Trade Marks Act, 1999 and subsequent rules. Service Marks were not available earlier but have been introduced under this Act and subsequent rules. Registration of a trade mark is not compulsory; however, registration would be useful in dealing with cases of infringement. The term of a trademark registration is for a period of ten years is renewable indefinitely by the user.

### 15.2 International Trademark Protection

International protection for trademark is through the Madrid system and is governed by two treaties – the Madrid Agreement and the Madrid Protocol. Of interest to LISP are two databases of WIPO. These are the MADRID EXPRESS, which permits the searching of international trademark registrations, and ROMARIN for details of international marks.

### 16. Industrial Design (ID)

"Industrial Designs" relates to the ornamental or aesthetic aspect of a useful product. It is concerned with shape, texture, color, configuration and pattern etc. or the combination thereof of any object that could be consumer or industry oriented. It may be three-dimensional or two dimensional. It protects the appearance of a product. As Designs are considered to be intellectual property, protection is given to them under law. The purpose of design registration is, therefore, to ensure that creators of designs are not deprived of the economic benefits due to them by others applying it to their goods. In India, the Indian Design Act, 1911 has been replaced by the New Designs Act, 2000. Novelty is a criterion here also as in the case of patents.

(http://ipindiaservices.gov.in/designapplicationstatus/designstatus.aspx)

### 16.1 International ID Legislation

Under the Hague System for the international registration of industrial designs. it is possible to obtain protection in several countries through filing one single international application.

### 17. Geographical Indications (GI)

A Geographical Indication is a notice stating that a given product has its origin in a given geographical area. This implies that the product (either natural or crafted) has a certain unique quality. It is thus used to identify goods having special characteristics originating from a definite Geographical Territory. The product derives its qualities and reputation from that place. That is, there is a connection between the product and the place and the customer is assured of the quality of the product when such a tag is used. It could apply to both agricultural produce as well as handicrafts and manufactures associated with a region. The registration of GI gives the party registering the GI and authorized users the legal right to make exclusive use of the GI. India, as a member of WTO, enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999. The Geographical Indications Registry is located at Chennai. Darjeeling tea became the first GI tagged product in India.GI registrations have been given for many items in India such as:

- Mysore Silk
- Muga Silk of Assam
- Dharwad Peda
- Malabar Pepper
- Salem fabric
- E.I. Leather
- BhavaniJamakalam
- TirupathiLaddu etc.

### 18. Summary

The above sections deal briefly with various features of patents, patenting in India, information sources and patent search and retrieval. It is confined to free databases and resources and does not describe commercial databases. The module also discusses about trademark, industrial design, geographical indication, etc.

### 19. References


1. www.patentlens.net/daisy/patentlens/ip/around-the-world.html
2. http://www.oecd.org/sti/sci-tech/37569498.pdf
3. http://ipindia.nic.in/ipr/patent/patents.htm
4. http://www.wipo.int/patentscope/en/data/developing_countries.html
5. http://www.wipo.int/edocs/pubdocs/en/patents/434/wipo_pub_l434_03.pdf

6. www.wipo.int/freepublications/en/patents/.../wipo_pub_l434_11.pdf

7. https://support.google.com/faqs/answer/2539193?hl=en

8. http://www.wipo.int/export/sites/www/freepublications/en/patents/434/wipo_pub_l434_08.pdf

9. www.epo.org/register

10. www.epo.org/searching/essentials/patent-families/inpadoc.html

11. www.epo.org/gpi

12. www.uspto.gov

13. http://www.ipindia.nic.in/

14. http://www.ipindia.nic.in/NIIPM/

15. http://ipindiaservices.gov.in/designapplicationstatus/designstatus.aspx

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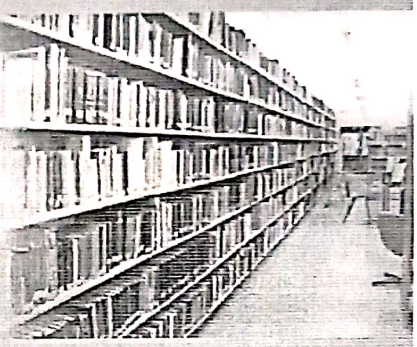

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## Module 10: Intellectual Property Rights: Patents

### I. Objectives

- To provide the students with an understanding of
- The laws relating to what is patentable
- The roles libraries & information centers should play in patenting
- The range of databases available

### II. Learning Outcome

On completion of this module, you are expected to have a clear understanding of the evolution of patent system, its objectives and what is patentable and what is not. You should also have an understanding of the role libraries and information centres in R & D institutions should play in serving their parent organizations with regard to patenting their inventions and innovations

### III. Structure of Module

1. Introduction

2. What can be patented?

3. Ever greening of Patents

4. Criteria for Patenting

5. Terminology Associated with Patents

6. Procedure in Patenting

7. Types of Patent Applications

8. Contents of Patent Document

9. International Patent Laws

    9.1 The Paris Convention

    9.2 The European Patent Convention

    9.3 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977).

    9.4. Patent Cooperation Treaty (PCT)

    9.5. Patent Laws in Other Countries

10. Patent Laws in India

11. Retrieval Tools

## 1. Introduction

Patents are one of the oldest forms of intellectual property. It is the exclusive right given to an inventor for a specified period of time protecting an invention – a "product" or the "process" of manufacturing that product. It grants the inventor the right to make sell or use the product or process and exclude others from doing so. Granting a patent is based on two fundamental ideas – i) human effort should be rewarded and that one is entitled to the fruit of one's labors; and ii) the product invented/process developed should not be the sole possession of the inventor in perpetuity. It should be for the 'public good' i.e. knowledge should be in the 'public domain'. Hence, even though a patent is granted for exclusive use, the time for such use is limited by law. The document which describes the invention is called a patent specification. It describes the legal rights in a patent are based on the disclosures made in the specification. The international organisation concerned with various aspects of intellectual property including patents is the WIPO. TRIPS which is an international treaty on Intellectual Property has also been described earlier. As is the case with copyright, there are international treaties for patents also.

## 2. What can be patented?

A patent can be granted for an invention of any process or product. The word "Invention" has been defined in the Patents Act 1970 as "a new product or process involving an inventive step and capable of industrial application". "New invention" is defined as any invention or technology which has not been described earlier in any document or which has been used in the country or elsewhere in the world before the date of filing of patent application i.e. the subject matter is not in the public domain or that it does not form part of the state of the art. "Capable of industrial application" means that the invention is capable of being made or used in an industry

As mentioned earlier, an application cannot be filed for an invention which has been either published or which has been publicly displayed. However, the Patents Act also states:

"Under certain conditions, there is grace period of 12 months for filing application even after publication. The Patents Act provides a grace period of 12 months for filing of patent application from the date of its publication in a journal or its public display in an exhibition organized by the Government or disclosure before any learned society"

The details and conditions are provided under Chapter VI of the Act (Section 29-34) (ipindia.nic.in/ipr/patent/faq_patent.htm).

## 3. Ever greening of Patents

Ever greening of a patent is a strategy allegedly adopted by some to renew their patents by bringing in some minor changes when the patent is about to expire. A patent on the new form would then give them monopoly for a further period of 20 years. This term is generally discussed in the context of pharmaceutical companies. The theory is that by adding new mixtures or formulations to an existing drug, pharma companies can patent the "new" drug and sell it at a higher cost. Indian patent law

prevents the ever-greening of a patent. Indian Supreme Court on April 1, 2013 denied a patent for the Novartis breakthrough drug Glivec (Imatinibmesylate). [1]

## 4. Criteria for Patenting

Three criteria have to be fulfilled for an invention to be patented. These are:

- Novelty – the invention must be new or novel.
- Non-obviousness – an inventive step should be involved
- Utility – it must be capable of industrial application.

To obtain a patent, a patent specification, which is a written description of the invention, is submitted to the designated patent office. It discloses the details of the invention for which the patent protection is sought. The legal rights in a patent are based on the disclosures made in the specification.

## 5. Terminology Associated with Patents

### Prior Art

Prior Art is all the information that has been disclosed to the public in any form about an invention before a given date. Knowledge of prior art is necessary while patenting to confirm novelty and non-obviousness.

### What is a "priority date"?

Priority date is generally the date of first filing allotted by the patent office to an application. More than one person might be working on a problem (product or process) at the same time and achieve the same result. But only one person can be granted a patent for the invention. In such a case, the first-to-file the application gets the priority in granting the patent. Such a rule is useful when a patent is being applied for in several countries as Priority Date is the filing date of the first application in any of the countries under the treaties mentioned earlier. Though the date of filing is generally accepted as priority date it is not always so in all countries. In USA, for instance, it is the date when the invention was done.

### Inventor vs. Applicant

The inventor need not necessarily be the applicant i.e. the one who applies for the patent. Patents are property. Generally, a patent is owned by the inventor. However, the inventor and the owner of the patent may be different. The rights to the property can be assigned to others by the inventor. For instance, in a government funded research institute or an academic institution, the inventor assigns the patent to the institute or a university. The USA, however, requires a patent application to be in the name of the inventor. A company cannot be the inventive entity.

### Term of Patent

Currently, the term for patents in India is 20 years from the date of filing of the application for the patent whether it is a provisional or complete specification. The patent can be renewed every year on payment of a fee to the Patent Office and it is the

responsibility of the patentee to keep the patent alive by paying the requisite annual fee.

After the 20 year term the invention claimed in the patent falls into the public domain. In case of applications filed under PCT the term of 20 years begins from International filing date.

**Infringement**

Infringement of a patent is the violation of the exclusive rights of the patentee.

**6. Procedure in Patenting**

Filing of an application at the designated Patent Office is the first step in the patenting process. Once a patent is filed it is checked for the correctness of all documents required to be submitted with the application. It is then examined against the criteria mentioned earlier for patentability. Prior art search is also done by the Examiner at the Patent Office. Objections may be raised if criteria are not satisfied and the applicant can resubmit the application after carrying out the necessary changes. Once the criteria are satisfied it is published in the Official Journal of the Patent Office, after 18 months from the date of filing.

It is now open for opposition by third party which can be done within a period of one year from the date of advertising. If there is no opposition then the patent is sealed or granted. It is then published in the Patent Journal. A granted patent gives the inventor/assignee the exclusive right to make or sell the patented product or process and to exclude others from doing so. However, the government has the right to make use of the patent if it deems it necessary. It can also be used by others for experimental or educational and research purposes.

Indian patent law allows both pre-grant opposition and post-grant opposition. Pre-grant opposition can be anytime after the publication of the patent until its grant. It is granted only if it overcomes pre-grant opposition. Post-grant opposition decides whether the patent should be maintained or not.

**7. Types of Patent Applications**

- Ordinary Application: An application filed without reference to any other application made earlier.
- Convention Application: In this application priority date is claimed on an application made earlier in a convention country. The application is submitted along with the priority document.
- PCT International Application: An application made according to PCT. The applicant gets an international filing date in all the designated countries.

**Application for Patent of Addition:** If the applicant feels that he can do a slight modification to what he has already invented and for which a patent has been applied for, he can apply for an Application for Addition. This is because there is no inventive step involved.

**Provisional Specification:** A provisional specification does not disclose the complete description of the invention as time might be required to develop it further. The provisional specification is filed to claim the priority date of an invention. Immediately on receiving the provisional specification the patent office accords a filing date for the application. A period up to twelve months is provided to the applicant for filing the complete specification.

**Complete Specification:** The document, containing the detailed description of invention along with the drawings and claims is called as the complete specification. The description regarding prior art is included in the complete specification. The disclosure of the invention in a complete specification must be such that a person skilled in the art may be able to perform the invention. It is mandatory on the part of an applicant to disclose fully the various features constituting the invention along with experimental results and drawings, etc. essential for understanding the invention. The complete specification contains the patent number, the title of the invention, the field to which the invention belongs, prior art, the name, address and nationality of each of the applicants. Every complete specification is accompanied by an abstract to provide technical information on the invention. The Claims section in a specification defines the scope of legal protection. The Claims define the monopoly rights that the applicant is trying to obtain for the invention.

**Equivalent Patent:** A patent that relates to the same invention and shares the same priority application as a patent filed elsewhere.

**Patent Family:** A patent family consists of all the patents which relate to the same invention published by different patent offices in various countries. That is, it is the same invention patented in more than one country by the same inventor and having the same priority date.

## 8. Contents of Patent Document

A patent document is a techno-legal document and four categories of information can be found:

- Bibliographic
- Technical
- Legal
- Database and retrieval oriented

Every patent document must contain a description of the "prior art" in that area. That is, it describes the state of the art of technology in the field of invention and the various developments in the field in which the patent is being applied for and as such contains references to periodical articles, earlier patent specifications and other literature. Thus it contains useful research and technical information. There are two types of "prior art" references - those given by the applicant and those given by the Patent Examiner. As patent system is very old, LISP can help in tracing the history of specific fields of technology especially as such information may not be available in any other form of publication.

## 9. International Patent Laws

### 9.1 The Paris Convention

The Paris Convention for the Protection of Industrial Property, signed in Paris in1883, was one of the first intellectual property treaties and is administered by WIPO. The Convention applies to all categories of industrial property such as patents, trade and service marks, industrial designs, utility models (a kind of "small patent" provided for by the laws of some countries), trade names and geographical indications. As of 2013, the Convention has 175 contracting member countries. India became a member of the Paris Convention in December 1998. The principal features are:

- A member country is obliged to give nationals of other member countries the same protection and advantages as it grants to its own nationals.
- Right of priority: The Convention provides for the right of priority in the case of patents, trade and service marks and industrial designs. This means that if an application is filed in one country and is subsequently filed within the specified time frame in another convention country, the latter application will be considered to be filed on the same day as the first application thus ensuring right of priority
- Common Rules: The Convention has also laid down some common rules for all the contracting states.

### 9.2 The European Patent Convention

European Patent Convention (EPC) signed in Munich in 1973 is a multilateral treaty instituting the European Patent Organisation (EPO) - an intergovernmental organization - for granting European patents.

### 9.3 Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (1977).

This treaty is administered by WIPO and India became a signatory in 2001.In any patent specification the invention should be described in sufficient detail so that it is possible for a person skilled in the art to perform the invention. When an invention involves microorganism, it is not possible to describe it in a manner by which others can perform the invention. Hence, in inventions involving microorganisms, a deposit of the biological material in a recognized institution is required. The Budapest Treaty ensures that if an applicant deposits the material in any one recognized institution it is not necessary to deposit it again in other countries when applying for a patent in those countries.

### 9.4. Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (1970), an international patent law treaty provides a unified procedure for filing patent applications in each of its 148 Contracting States. By filing one international patent application under the PCT, applicants can seek protection and priority in any of the countries designated by them. India is a member of the PCT since December 1998.

## 9.5. Patent Laws in Other Countries

As has been mentioned earlier, patent laws are national in scope. To know more about the laws of various countries, WIPO has created the WIPO Lex which is an electronic database providing access to intellectual property (IP) laws and treaties of the Members of WIPO, the World Trade Organization (WTO) and the United Nations (UN).

National Laws on Patents can also be accessed from the Patent Lens web site. www.patentlens.net/daisy/patentlens/ip/around-the-world.html

## 10. Patent Laws in India

The Indian Patents and Designs Act 1911 came into force in 1912 replaced all earlier acts and brought patent administration under the management of Controller of Patents for the first time. The 1911 Act was amended in 1950. The Patents Act 1970 repealed and replaced the 1911 Act so far as the patents law was concerned. This Act permitted only process patents for five years, and no product patents for drugs and pharmaceuticals and certain classes of chemicals. The 1970 Act was again amended in 2005 to be in line with TRIPS.

## 11. Retrieval Tools

### 11.1 Indian Patent Classification System

The Indian Patent Classification System is more than sixty-year-old. As the classification system has not kept up with developments in technology, the classes are very broad. It is not in use.

### 11.2 The International Patent Classification (IPC)

The Strasbourg Agreement (of 1971) provides for a common classification for patents including published patent applications, utility models and utility certificates. The IPC is a hierarchical system in which the whole area of technology is divided into sections, classes, subclasses and groups. The IPC contains about 70,000 groups. The hierarchy is as follows:

- Section
- Sub-section
- Class
- Sub-class
- Main Group
- Sub-group

More than one classification number can be assigned to a patent document so as to indicate the various facets of the information contained.

### 11.3 INID Codes

Since patents can be in different languages there may be differences in terminology to describe the data elements. To overcome this, the INID code was developed as a

common code for identifying the different data elements. INID stands for internationally agreed Numbers for the Identification of (bibliographic) Data. The INID codes can be utilized by the information professional to retrieve patents in different languages or when creating an in-house database of patents.

## 12. Sources of Information

Activities relating to patents have their own terminology. The OECD's 'Glossary of Patent Terminology' is a very useful tool to understand the various terms used in Patenting and Patent Searching. (http://www.oecd.org/sti/sci-tech/37569498.pdf)

Indian Patent Information Retrieval System, (IPAIRS) is a free search portal launched by the Indian Patent Office. Version 2.0 was released in April 2012. It includes full specifications of Indian patents.

### 12.1 Official Journal of the Patent Office

A requirement of the 2005 amendment to the Patent Act 1970 was the publication of an Official Journal of the Patent Office. It is a weekly uploaded every Friday and is available on the patent office website.

(http://ipindia.nic.in/ipr/patent/patents.htm).

### 12.2 WIPO Patent Information Services (WPIS)

To offer technical assistance to developing countries, WIPO has set-up the WIPO Patent Information Services (WPIS) for handling individual requests for patent information. The WIPO Patent Information Services are offered free of charge to developing countries.

(http://www.wipo.int/patentscope/en/data/developing_countries.html).

The WIPO Guide to using PATENT INFORMATION is useful in understanding the structure of a patent document and tips for searching them. http://www.wipo.int/edocs/pubdocs/en/patents/434/wipo_pub_l434_03.pdf

### 12.3 Guide to Technology Databases

WIPO has brought out the "Guide to Technology Databases" to assist the users in identifying and using publicly available online patent databases. The Guide describes the scope of each of the databases and evaluates them. (www.wipo.int/freepublications/en/patents/.../wipo_pub_l434_11.pdf)

### 12.4 Patent Lens

Patent Lens is a worldwide, open-access, free full-text patent database. It covers over 8 million patents and applications – those of WIPO, USPTO, and EPO. It also integrates the INPADOC legal status feature and patent family information. A useful feature is the searching of DNA and protein sequences disclosed in patents. Another feature of interest is the "Technology Landscape" which deals with technologies relevant to life scientists and are 'interpretation maps' of specific topics and which analyze patent data relating to particular topics.

## 12.5 Google Patents

Launched on December 14, 2006 and originally confined to patents and patent applications of the United States Patent and Trademark Office (USPTO), includes European patent documents, China patents, German patents, Canada patents, and WIPO Patent details.

(https://support.google.com/faqs/answer/2539193?hl=en.)

## 12.6 Patent scope

Patent scope is a database administered by the WIPO and provides access to regional and national patents as well as International Patent Cooperation Treaty (PCT) applications in full text format on the day of publication. Being an international organisation, the WIPO has provided a search interface in 9 languages. Cross-Lingual Information Retrieval (CLIR) is a tool that proposes synonyms for search keywords and automatically translates the keywords for retrieval.

(http://www.wipo.int/export/sites/www/freepublications/en/patents/434/wipo_pub_l434_08.pdf)

## 12.7 Espacenet

Espacenet developed by the European Patent Office (EPO) offers free access to more than 70 million patent documents worldwide. The coverage goes as far back as 1836. The European Patent Office (EPO)'s machine translation service Patent Translate service offers on-the-fly-translation of patent documents for all 28 official languages of the EPO's 38 member states, plus Chinese, Japanese, Korean and Russian. It is also possible to ascertain the legal status of the patent through links with the European Patent Register (www.epo.org/register).

INPADOC, which stands for International Patent Documentation Center, is an international patent database produced and maintained by the EPO. The database provides information about patent families and also information concerning the legal status of patent applications. The database is the most comprehensive one for performing worldwide patent family searches.

(www.epo.org/searching/essentials/patent-families/inpadoc.html)

The Global Patent Index (GPI) is an advanced tool for searching the EPO's worldwide patent data. The GPI is based on the EPO's DocDB worldwide patent database collection and INPADOC worldwide legal status database (www.epo.org/gpi)

## 12.8 National/Regional Patent Offices

Patents of specific national and regional Patent Office's can be identified by searching the website of these Offices. For example, the US Patent and Trademark Office for US Patents and Patent Applications (www.uspto.gov).

### 12.9 Historical Information

For those interested in historical searches, some of the references which would be of help are given below:

- Gazette of India
- Patents for Inventions
- Patent Office Journal(POJ)
- Indexes by the Indian Patent Office
- Journal of the Patent Office Technical Society
- Patented Inventions of the CSIR
- INPAT Database
- Ekaswa Databases
- Institutional Sources
- National Institute for Intellectual Property Management (NIIPM)
- Patent Information System (PIS)

## 13. Institutional Sources

The website of the Controller General of Patents, Designs and Trademarks provides information on all patents, designs, trademarks, geographical indications. http://www.ipindia.nic.in/

### 13.1 National Institute for Intellectual Property Management (NIIPM)

The Rajiv Gandhi National Institute for Intellectual Property Management under the Ministry of Commerce & Industry is engaged in conducting training and awareness programs relating to Intellectual Property Rights such as Patents, Designs, Trademarks and Geographical Indications. (http://www.ipindia.nic.in/NIIPM/)

### 13.2 Patent Information System (PIS)

PIS were established in 1980 at Nagpur by Ministry of Commerce and Industry, with the following objectives:

- To obtain and maintain a comprehensive collection of patent specification and patent related literature on a world-wide basis.
- To provide technological information contained in patents through search services and patent copy supply service;

The PIS has many international databases and full texts of patents the list of which is given in its website. The PIS also provides search services including state-of-art-search, bibliographic search and family patent search.

(http://ipindia.nic.in/Niipm/pis.htm)

### 13.3 Traditional Knowledge

Patents have been applied for and granted in many instances on the basis of the traditional knowledge of a community or society and though this knowledge is in the public domain it is not available in any document. This is because such knowledge is generally passed down from one generation to the next by word of mouth, and for the

most part is not documented. This is a major cause of concern to governments as it leads to economic losses and is prejudicial to the interests of the community and to the nation at large.

Biopiracy refers to the appropriation, generally by means of patents, of indigenous biomedical knowledge by foreign entities (including corporations, universities and governments) without compensatory payment.

IPR regimes have been permitting only formal systems of knowledge. India has strong and worthy informal systems of knowledge. This knowledge has to be codified so that information contained in them can be documented to prevent biopiracy. India is one of the 193 odd nations that are a party to the international treaty - Convention on Biological Diversity which came into force on 29/12/1993. India has passed the Biological Diversity Act 2002 under which every local body shall constitute a Biodiversity Management Committee and maintain a People's Biodiversity Register which shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with it. The library professional especially those in public libraries in rural areas can get involved in such endeavors.

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Another immense effort to combat biopiracy is the Traditional Knowledge Digital Library (TKDL) Project of the NISCAIR, a CSIR institution. The examiners of patents involving neem, turmeric, etc. contended that they could not search relevant traditional knowledge as prior art. The reason for this non-accessibility were that a) such information was not compiled and arranged in an orderly fashion b) the prior art was confined to texts which were not in the English language. The TKDL project was established in 2001 to overcome this. At the time the TKDL was established, it was estimated that nearly 2000 patents relating to Indian Medicinal Systems had been granted. The TKDL database makes available the information from various sources. TKDL gives modern names to plants/diseases/processes mentioned in literature relating to Indian systems of medicine. TKDL is a database containing information from Indian Systems of Medicine including Ayurveda, Siddha, Unani and Yoga to be used as prior art. It contains scanned images of medicinal formulations from original books. TKDL has since its inception prevented many patents being granted. The information professional thus has an important or even vital role to play in participating in the documenting of knowledge/dissemination of such knowledge.

## 14. The Role of LISP vis-à-vis Patents

Novelty had been mentioned as being one of the criteria for patenting. Novelty means that the information contained in the patent should not have been published earlier or in use. An extensive and exhaustive search of literature and patent publications is necessary to determine novelty. The LISP can thus help the patentee in several ways:

- before filing of the patent to ascertain if information is already available in published form or if it is already put into use;
- by creating awareness in the applicants for the need for novelty and advising them in filing a patent before the matter is submitted as a dissertation or as a paper.

- by checking for novelty in patents relating to the field of interest of the parent organization so as to aid in the opposition process.

### 15. Trademarks

A trademark is basically a visual symbol which is used to label goods or services so as to distinguish the goods or services offered by one undertaking from those offered by another. It can be a name, word, symbol, slogan or even a combination of the above and identifies a given product. The main characteristics of a trademark are that:

- it should be distinctive i.e. be able to distinguish the goods and services of another
- It should not be deceptive

A service mark is the same as a trademark. However, it identifies a service and not a product. Service marks are used to create a brand image. They are extensively used in the hospitality, advertising, telecommunication industries to name a few and for medical services, education etc.

### 15.1 Trademark Protection in India

Trademarks are administered by the Trademarks Registry under the Controller General of Patents, Trademarks and Designs. It administers the Trade Marks Act, 1999 and subsequent rules. Service Marks were not available earlier but have been introduced under this Act and subsequent rules. Registration of a trade mark is not compulsory; however, registration would be useful in dealing with cases of infringement. The term of a trademark registration is for a period of ten years is renewable indefinitely by the user.

### 15.2 International Trademark Protection

International protection for trademark is through the Madrid system and is governed by two treaties – the Madrid Agreement and the Madrid Protocol. Of interest to LISP are two databases of WIPO. These are the MADRID EXPRESS, which permits the searching of international trademark registrations, and ROMARIN for details of international marks.

### 16. Industrial Design (ID)

"Industrial Designs" relates to the ornamental or aesthetic aspect of a useful product. It is concerned with shape, texture, color, configuration and pattern etc. or the combination thereof of any object that could be consumer or industry oriented. It may be three-dimensional or two dimensional. It protects the appearance of a product. As Designs are considered to be intellectual property, protection is given to them under law. The purpose of design registration is, therefore, to ensure that creators of designs are not deprived of the economic benefits due to them by others applying it to their goods. In India, the Indian Design Act, 1911 has been replaced by the New Designs Act, 2000. Novelty is a criterion here also as in the case of patents.

(http://ipindiaservices.gov.in/designapplicationstatus/designstatus.aspx)

### 16.1 International ID Legislation

Under the Hague System for the international registration of industrial designs, it is possible to obtain protection in several countries through filing one single international application.

### 17. Geographical Indications (GI)

A Geographical Indication is a notice stating that a given product has its origin in a given geographical area. This implies that the product (either natural or crafted) has a certain unique quality. It is thus used to identify goods having special characteristics originating from a definite Geographical Territory. The product derives its qualities and reputation from that place. That is, there is a connection between the product and the place and the customer is assured of the quality of the product when such a tag is used. It could apply to both agricultural produce as well as handicrafts and manufactures associated with a region. The registration of GI gives the party registering the GI and authorized users the legal right to make exclusive use of the GI. India, as a member of WTO, enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999. The Geographical Indications Registry is located at Chennai. Darjeeling tea became the first GI tagged product in India.GI registrations have been given for many items in India such as:

- Mysore Silk
- Muga Silk of Assam
- Dharwad Peda
- Malabar Pepper
- Salem fabric
- E.I. Leather
- BhavaniJamakalam
- TirupathiLaddu etc.

## 18. Summary

The above sections deal briefly with various features of patents, patenting in India, information sources and patent search and retrieval. It is confined to free databases and resources and does not describe commercial databases. The module also discusses about trademark, industrial design, geographical indication, etc.

## 19. References


1. www.patentlens.net/daisy/patentlens/ip/around-the-world.html
2. http://www.oecd.org/sti/sci-tech/37569498.pdf
3. http://ipindia.nic.in/ipr/patent/patents.htm
4. http://www.wipo.int/patentscope/en/data/developing_countries.html
5. http://www.wipo.int/edocs/pubdocs/en/patents/434/wipo_pub_l434_03.pdf

6. www.wipo.int/freepublications/en/patents/.../wipo_pub_l434_11.pdf
7. https://support.google.com/faqs/answer/2539193?hl=en
8. http://www.wipo.int/export/sites/www/freepublications/en/patents/434/wipo_pub_l434_08.pdf
9. www.epo.org/register
10. www.epo.org/searching/essentials/patent-families/inpadoc.html
11. www.epo.org/gpi
12. www.uspto.gov
13. http://www.ipindia.nic.in/
14. http://www.ipindia.nic.in/NIIPM/
15. http://ipindiaservices.gov.in/designapplicationstatus/designstatus.aspx