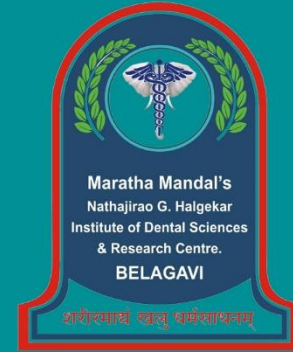


INTELLECTUAL PROPERTY RIGHTS



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**MARATHA MANDAL'S NGH INSTITUTE OF DENTAL SCIENCES AND
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INTELLECTUAL PROPERTY RIGHT**

POLICY FOR INTELLECTUAL PROPERTY RIGHT:

Recent amendments in the regulatory requirements governing biomedical research have shifted the thrust from just safeguarding Indian subjects to providing them access for biomedical innovation. India has signed the Trade Related Intellectual Property Rights (TRIPS) agreement as a part of the WTO regulations, which will guarantee intellectual property rights and patent protection to companies holding the patent from 2005. In the present intellectual property right (IPR) regime, it has become extremely important for conducting timely clinical research.

What are Intellectual Property (IP) Rights?

Intellectual Property Rights are legal rights, the properties per say result from intellectual activity in industrial, scientific, literary and artistic fields. These rights safeguard creators and other producers of intellectual goods and services by granting them certain time-limited rights to control their use. Protected IP rights like other property can be a matter of trade, which can be owned, sold or bought. These are intangible and non-exhausted consumption. In the changing and globalized economic situation, it is important to have a good understanding of legal implications and rights of researchers and institutions. It is equally important to understand the existing trends.

Why Intellectual Property Rights?

Intellectual Property Rights are statutory rights which allow the creator/s or owner/s of the intellectual property to exclude others from exploiting the same commercially for a given period of time. It allows the creator/s, owner/s to have the benefits from their work when these are exploited commercially. IPR are granted to an inventor or creator, designer in lieu of the disclosure of his/her knowledge.

What is an invention?

An *invention* is a new product or process involving an inventive step and capable of industrial application. An *innovation* is the successful exploitation of new ideas in the form of a useful machinery or process, by any person, using own intellect is called as invention.

TYPES OR TOOLS OF IPR

- a. Patents
- b. Trademarks.
- c. Copyrights and related rights.
- d. Geographical Indications.
- e. Industrial Designs.
- f. Trade Secrets.
- g. Layout Design for Integrated Circuits.
- h. Protection of New Plant Variety.

Governing laws in India for IPR are:

- 1. Patent Act 1970
- 2. Trade Marks Act (1958 original) 1999
- 3. The Copyright Act 1957
- 4. The design Act 2000
- 5. Geographical Indication of Goods (Registration and Protection) Act 1999
- 6. Plant Variety and Farmers Right Protection Act 2001

Scope of IPR

In order to be suitable for IPR registration, an invention must be novel and inventive. An invention is considered to be novel if it has not been disclosed to the public at the time that the IPR application was made. As long as the date of the application precedes any disclosure of details of the invention to the public, the invention can be validly registered as one of the various IPR tools available in the country. If however, details of the invention have been disclosed to the public before applying for the IPR rights, then the invention is no longer considered to be novel in an IPR sense and it will not be possible to protect it validly through the available IPR system.

Academic Research, their Publication and IPR Application Strategies

People carrying out academic research are frequently under pressure to publish the results of their research for academic reasons. Researchers should, bear in mind the possibility of commercial results from their research. If a researcher sees a commercial application from his or her research, it would be wise to delay publication until a patent application has been filed.

Applying for a Patent

The first step in applying for a patent is to file a preliminary application in one country. The date of application is recorded and is called as the 'priority date'. The first application can be quite basic and does not have to include a set of claims. It is still an important document and specialist advice from a patent agent should be obtained in preparing it.

The Patent System

A patent is a contract between the inventor or applicant for the patent and the State or country whereby the inventor or applicant gets a monopoly from the State or country for a certain period in return for disclosing full details of the invention. The patent system thus ensures that information on new inventions is made available for eventual public use so as to encourage technical and economic development and discourage secrecy.

POLICY

Over past 20 years since the inception of Maratha Mandal's Nathajirao G Halgekar Institute of Dental Sciences and Research Centre Belagavi, academicians and students here are carrying out research to achieve various objectives. Any new information/data generated are immediately published for its widest dissemination and application for public good. Of late, the institutional authorities are becoming increasingly conscious of the need and importance of protecting such new knowledge generated through appropriate IPR systems before publication. Such awareness has largely been triggered by changes like liberalization and globalization of economy and the encouraging participation of industry in the increasingly technology-driven medical research, and health care. For such partnerships to be viable and successful, it is essential that the institution has appropriate Intellectual Property Rights (IPR), technology transfer and licensing policies in place.

Mission

To work towards improving the oral health of Belagavi people. The institute promotes biomedical research so that the various technologies developed could be transferred to the industries for commercialization thereby making them accessible to the society.

Policy

The Intellectual Property Rights Unit in the institute will help and encourage researchers in their efforts to identify innovative component of their research and seek patent protection before publication, to commercially exploit all new knowledge generated with the institution's support. The IPR Unit would provide technical, legal and other support needed for IP protection, technology transfer, licensing and commercialization issues. Patents in the Indian Patent Trademark and Design Office and abroad will also be filed as per the policy described herein.

Major objectives

1. To make researchers aware of the need and responsibility to protect new knowledge generated through IP rights, ownership of biological and other materials and data generated using institution's funds and facilities.
2. To develop procedures at institution to capture, assess and protect new intellectual property generated.
3. To provide researchers with information on demand relating to patents in their areas of interest by maintaining appropriate national and international databases.
4. To provide appropriate technological, professional and legal expertise and services to assist researchers to file patents in India and abroad.
5. To develop and implement a royalty policy at institution that encourages innovative researchers and technology generators through a system of royalty sharing, and reward system.

Strategy

Some steps to achieve the objectives are as follows:

1. Appropriate internal system would be set up for the identification of new IP before publication.
2. Innovation-driven research would be encouraged through an IPR-friendly climate.
3. Researchers would be made aware of need for prompt IP protection before public disclosure, through personal contacts, regular training workshops, seminars, etc.
4. Researchers are encouraged to identify innovative component of their research and seek patent protection in India and abroad before publication.
5. To help promote a sound IPR system, some basic and essential practices like record keeping, appropriate recording of data, maintenance of laboratory handbooks etc. will be encouraged.
6. The renewal of all patents filed in India and abroad will be reviewed at the end of 10 years after filing.
7. Patents which have already been commercialized, however, will be maintained for the entire period of 20 years.
8. The IPR Unit would be engaged in regular monitoring of the Indian and global patent scenario to keep track on innovations of the world.
9. The advice of experts would be sought for furthering the objectives.

SOURCE:

Kesave J.S, Gupta N, Bedi R.S Intellectual property Rights and obtaining appetent – Indian Scenario. Asian Journal of Oral Health Allied Sciences 20