

## **ANNEXURE I - Observations by 7th GIPC Participants during the session on “IPR Policy” on January 17, 2015, Hotel Lalit, Mumbai.**

### **The Session:**

The panel members presented their observations in sequence and then the mike was sent round the hall during the session that was attended by over 70 participants. In addition to the five panel members, 46 participants presented their views. These are represented below.

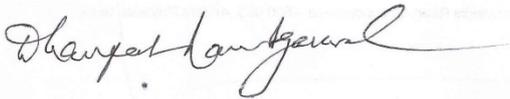
### **Observations by the participants:**

In general, the participants welcomed Government of India’s initiative for the formulation of a National IPR Policy and to develop an IP Ecosystem in the country. However, the participants expressed their views to strengthen the draft National IPR Policy as below -

1. The present thrust by the Government of India is “Make in India”. This is indeed a welcome step. However the draft policy document needs to tune itself to provide policy direction and clarity on “working of patents” India. Vagueness with regard to “working of patents” and its formal reporting leads to undesirable ambiguity and controversies.
2. The draft policy needs to prioritise specific items of national significance and also indicate timelines for those programmes, rather than creating open-ended avenues.
3. The draft has an overt tilt towards patent related items, with relatively less emphasis on other aspects of IPR which have serious consequences on national development and growth. This needs to be balanced.
4. The draft needs to address how IPR would be integrated into the country’s innovation and commercialisation process. Contextual reference has to be made to the National S&T Policy of 2003 and the National Science, Technology and Innovation Policy 2013 and indicate clear timelines for their implementation. Technology transfer financing of innovations through diverse financial institutions including banks and tax exemptions options ought to form a part of the policy framework.
5. Policy directions for enhanced resources in administrative offices with clear timelines need to be indicated. There is need for increased skilled resources in the IPR Offices. These offices must also be provided with comprehensive world-class hardware, software and associated communication facilities. The present facilities are grossly inadequate and not of the expected quality. The databases and search engines need to be modernised in all the areas including in the copyright and plant varieties sectors. In the present form the IPR Offices have fairly user-unfriendly information systems, often times not updated in real-time.
6. Planned and periodic skill development programmes in the Indian IP Offices need to be undertaken. The policy is silent on allocating accountability of the IPR Offices. It needs to explicitly articulate its need and approaches to achieving the same. Expertise of private sector IP professionals should be accessed in achieving these objectives.. Further involvement of foreign patent office personnel in specific training programmes ought to be considered under appropriate bilateral and multilateral arrangements.

7. Policy should set the direction for increased autonomy for the Office of the Controller General of Patents, Designs, Trade Marks and Geographical Indications (CGPDTM). There appears to be no clarity of the roles and responsibilities of the DIPP and the CGPDTM thereby leading to delays in reforms, executable actions of relevance to the stake holders. Accountability for delays and failures in compliance with IP Manual should be fixed and tightened. All the IPR laws should work in tandem and not in silos.
8. The policy must clearly indicate how greater co-ordination within the Government for enforcement ought to be achieved. The creation of a centralized 'Multi-Agency Task Force' is a welcome idea, but this is not the first time that such a thought has been articulated. Such a thought has been therefore quite some time but has not been materialised in India. Mere articulation of the thought in the policy draft is not adequate. An implementation pathway needs to be given.
9. The DIPP has previously suggested a utility model system but the suggestion by the stakeholders were not followed up and no positive outcome has been seen. The draft once again merely makes a listing of the concept. No direction on how it is to be achieved has been articulated.
10. The Protection and Utilization of Public Funded Intellectual Property Bill, 2008 needs to be redrafted and progressed. The previous bill was fraught with weaknesses and non-implementable sections. A new committee needs to be set up to redraft the bill. The bill has to reflect the Indian context and should not mirror or imitate other countries.
11. The need for an appropriate trade secret law in India is again not a new concept. The policy ought to set a timeline for arriving at consultation and recommendations in this regard. Should also address how this will promote technology transfer and operationalization of the IPR system in SMEs, MSNEs, etc.
12. The education system from school to the higher education system ought to include IPR, its need and implications to the growth and development of the country into our courses, have appropriate teaching material developed so that there is some standardisation in the education and training programmes at various levels. The policy should therefore provide an inclusive programme on how to arrive at such an approach with involvement and professional inputs from all sectors including the industry, various industry associations, etc.
13. The policy without taking hard-line position should provide platform for debating the contentious issues, such as compulsory licensing in all the IPR instruments, pricing of IPR linked products and processes, definition of foreign entities in the laws, Data protection and Data exclusivity for Pharmaceutical sector, providing the third party observations in patent prosecution as against pre-grant opposition provisions, etc. However, the IPR Policy should not compromise on economic sovereignty of the country and should clearly mention the fact that Indian IPR laws are wholly TRIPs compliant and are in the best national interest for common people especially to protect their public health in the spirit of Doha Declaration.
14. Piracy and Counterfeits are serious detriments to innovation and effective commercialisation. The policy has to provide a strong direction on anti-counterfeiting movement in India and clearly chart out a path for definitive enforcement system against counterfeiting in India.

15. Hargreaves Report on the IPR and Digital opportunity in UK which was the foundation for the changes in the copyright laws in the Digital Economy in the UK (<https://www.gov.uk/government/publications/digital-opportunity-review-of-intellectual-property-and-growth>) resulting ultimately into creation of Copyright Hub or place of IPR/Copyright Exchange is also being recommended for the study of the IPR Think Tank.
16. There should be proper education and training of the police and custom officials who are to enforce the IPR laws in order to have effective enforcement of the infringements at various levels including cyber policy.
17. There should be centralised IPR searches for Copyrights and Patents since Trademark is already in place. There is also the need for maintaining up-to-date Patent Register and Database available.
18. IP offices in India should work in coordination with international IP offices such as the USPTO, EPO and JPO so as to share best knowledge practices. One such way to share best practices is through exchange of personnel and conducting joint training programmes. Government of India should also look for the possibility of joining the Patent Prosecution Highway (PPH) with some advanced countries on bilateral basis.
19. There should be emphatic clarity on the existing Indian Patent law which is wholly TRIPs compliant so that there is no ambiguity about the provisions of patentability on pharmaceuticals, the provisions of Compulsory Licensing and on Date Exclusivity.
20. The IPR Policy should provide direction for IP leveraging through different financial instruments, collateralisation / securitisation of IP Assets which will also foster commercialisation and facilitation of technology transfer under different licensing modes.



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